



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 Steven Costello Fred LaSelva

John Norman – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director

Anna Brigham, Principal Planner

Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

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BARNSTABLE
TOWN CLERK

Town of Barnstable PLANNING BOARD Minutes June 26, 2017

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

Also in attendance were Elizabeth Jenkins, Director and Karen Herrand, Principal Assistant, Planning & Development 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.

Adam Lucente from the Cape Cod Times in attendance. He will be recording with audio only.

Approval Not Required Plans:

951 Old Stage Road, Centerville, Mark Cabral & Christa Cabral, Map 172 Parcels 005-001 & 005-002. Plan entitled “Plan of Land at #951 Old Stage Road & #71 Washington Bursley Way Centerville, MA prepared for Mark Cabral et al, dated March 27, 2017” drawn by Down Cape Engineering, inc. Reconfiguration of the lots as shown on a plan previously endorsed.

Dan Ojala from Down Cape Engineering in attendance. He gives an explanation of the proposed request/ Resource Protection Overlay District (RPOD) needs full variance for the lots. For conveyance purposes only, to make conforming.

Stephen Helman asks about the shared driveway. Clarifies that can see existing dwelling from street.

Ray Lang asks about notification of addresses.

Dan Ojala replies that it is the Engineering Dept. at DPW. E911 coordinator. Assignment of street number, these are existing addresses.

Chair Ray Lang entertains a motion, moved by David Munsell, seconded by Mary Barry, so voted unanimously to approve/endorse.

Subdivisions:

Subdivision No. 825 - Modification of Subdivision Nos. 536 & 431/Road Rescission
74 Summerbell Ave. Centerville - Applicant: John & Sheree Kay with Christian Camp Meeting Association (CCMA). The plan for this subdivision modification is entitled "Definitive Plan of 74 Summerbell Avenue, Centerville, MA prepared for John & Sheree Kay" dated February 21, 2017. The subject property is shown on Assessors Map 226 as Parcel 064. This is a request to rescind a portion of Spring Avenue.

Dan Ojala in attendance. He is representing the Applicant, Kay's. Cleaning up a conveyance from 1960, an unbuilt way. Hands out CCMA document, Exhibit A. Mr. Kay would like to rebuild his steps. Small lot, foot path. Not to drive any vehicles, foot path only. There was a problem with some of the abutters being notified and some not. He wanted to have a public hearing. Process from 1874: Confirmatory deed possibly.

Motion made by Paul Curley to open the Public Hearing, moved by Mary Barry, seconded by Stephen Helman, so voted unanimously.

Elizabeth Jenkins replies, that there was a late notice regarding abutter listing. The GIS did not notify in the same way that was not identified. It was an error.

David Munsell asks about re notifying abutters.
Dan Ojala replies possibly so.

Jim Lane, President of CCMA, 86 Summerbell Ave. Church organization, used to own 162 acres. 1872 plan has been used. As a homeowner he does not know why he wasn't notified. CCMA owns a portion of Spring St., who decides what abutters should be notified.

Elizabeth Jenkins explains that the abutter notices were not automatically generated by our GIS system. Immediately adjacent abutters. On the plan there were 3 property owners, the next door neighbor as CCMA was not generated because the system only brings up parcels, not ways.

Jim Lane - He does not believe that this public hearing was properly notified. The CCMA has a legal right. He is not in favor of having this rescinded. He wants to make sure that this ancient, community pathway is not affected. Several years ago the Kays wanted to do an easement.

Elizabeth Jenkins states that this may be a follow up to be in conformance from long ago.

Jim Lane would like to request a continuance to August meeting/respectfully requests.

Stephen Helman makes comment that his association should have been notified.

Paul Curley agrees except, make any questions tonight, so Applicant knows what the questions were and then extend and make legal the abutter notifications.

Fred LaSelva asks if the Kays/Applicant is here?

Jim Lane responds that it is a common pathway, they own a 20 ft. strip, Spring Ave. a 10 ft. strip should remain there.

Fred LaSelva asks what would be the use of the 10 ft. step directs to Dan Ojala, what happens to the walkway and what are the Applicant's plan?

Dan Ojala replies, nothing will happen to the way, no changes. On Kay's land would like an assessment of the true property size. Mr. Kay would like to feel comfortable to make his steps, permitting easier, his steps are deficient now. Rescind the way formerly.

Fred LaSelva confirms that the CCMA would have no change.

John Kay in attendance, owner of 74 Summerbell. He would like to get Assessing map cleared up/straightened up, now it shows a road. They did Title 5 when they bought house, had to build retaining wall on the opposite side of house. It has nothing to do with the 10 ft. strip CCMA will have. Would like to redo the stone wall on their side, but would look like across the street. Side entrance, stairs do encroach onto the 20 ft. piece. To the east the abutters have encroached. His intent is to clean this up. He did contact Jim Lane a year ago to see if they would do, they rejected it. The deed states that they gave up all title and interest, but the assessors map didn't make this clear, from the '60's. He lives in California, his roots go back to CCMA, grandfather here, he has a connection there.

Chair Ray Lang asks who pays the taxes now?

Dan Ojala replies, that no one pays taxes on it, it's a road, they would like to own and pay taxes on it. Ways aren't generally accessed for tax purposes. This is just to formalize.

John Kay states that he is currently paying the taxes on this road.

Elizabeth Jenkins reiterates, that Mr. Kay does own per this deed, see Exhibit A. He owns the parcel in question, this is merely to have a plan of record that indicates that he does own the parcel. It looks like a way, but he does own it. Housekeeping item at this point.

Stephen Helman comments that the Planning Board has an obligation to let people be heard. Paul Curley states he fully supports this.

Fred LaSelva comments that what happens when/if he sells property, will this remain?

Mr. Kay answers that the 10 ft. parcel will be with CCMA, it's not part of his parcel. He asks if he will need legal counsel in August.

Dan Ojala clarifies that he will let him know/this was a glitch, they want to do this correctly.

Chair Ray Lang entertains a motion to continue the Public Hearing until Aug. 28th, 2017, moved by David Munsell, seconded by Stephen Helman, so voted unanimously.

Special Permits:

Special Permit Application No. 2017-003 – Modification to Zoning Board of Appeals (ZBA) Appeal/Decision No. 2005-48 and 2001-107, of ZBA Special Permit No. 1994-56

259 North Street LLC/Stuart Bornstein seek to modify ZBA Decision No. 2005-48, to remove the commercial use restriction, and allow for residential apartments, 14 units. The subject property is addressed 259 North Street, Hyannis, MA and is shown on Assessor's Map 308 Parcel 073.02. Property is located in the HVB District – Hyannis Village Business District.

Chair Ray Lang entertains a motion to open Public Hearing, moved by Stephen Helman, seconded by David Munsell, so voted unanimously.

Stuart Bornstein, Developer in attendance. He gives a brief explanation of what he would like to do.

Elizabeth Jenkins explains: reference to Staff Report, Exhibit B. Formerly an office bldg. this is to modify and remove restriction. Originally it was only for the beauty school, Zoning Board of Appeals (ZBA) granted relief for parking. There were easements granted, currently 32 parking spaces. Plan referenced, Exhibit C. Prior SP and use of the 3rd floor. We might need clarification for the residential spaces. There is a prohibition for overnight parking now. The conversion to 14 condominium units. We need housing downtown.

Mary Barry asks what the plan would be? Privately owned condominiums?

Stuart Bornstein explains that they have traded parking.

Elizabeth Jenkins clarifies that there are easements, whereby anyone is entitled to park. Overnight is prohibited. Encumbered by the easement.

Stuart Bornstein states that there is enough parking, 32 spaces on their property. There will probably be a lot of people that don't have the need for parking as well.

Mary Barry asks what the overnight plan for parking would be? We need to clarify this.

Steven Costello asks if there is enforcement re overnight parking. Maybe create parking permits for residents. Apartments, condos, convert in future.

Elizabeth Jenkins replies, yes, per licensing regulations, it is possible.

Stuart Bornstein - maybe a mix, sell and/or rent.

Stephen Helman is concerned with overnight parking. Is it possible to set up a system to grant a designated parking space - can get town approval to permit them to park there.

Elizabeth Jenkins, this can be looked at, modify the easements, there is a way to do this per Consumer Affairs/Licensing.

Chair Ray Lang confirms entrance/exit from North Street.

Stuart Bornstein isn't for sure, want to get this restriction taken care of first. It would be a less intensive use as residential. It's zoned for offices now, they are leaning towards condo's.

Chair Ray Lang confirms the use – office use is different? Current Office parking allows for shared parking.

David Munsell states that he thinks good proposal. Parking is an issue, have to get designated type of parking. He doesn't see any reason not to approve this.

Fred LaSelva asks for clarification re the people that will need car spaces. If rental units anyone could rent?

Stuart Bornstein replies that a lot of people do not have cars, they use bikes, B -bus and other means of transportation. 20 to 30%. Living in Hyannis usually work in the area.

Chair Ray Lang asks for public comment – None.

Fred LaSelva asks/clarifies what applicant wants done?

Stuart Bornstein replies, restriction removed and licensing permits of some type.

Chair Ray Lang entertains a motion to continue this public hearing to August 14, 2017, moved by David Munsell, seconded by Mary Barry, so voted unanimously.

Regulatory Agreements (Continued Hearings):

Application No. 2017-01

Shoestring Properties, LLC

Shoestring Properties, LLC seeks to enter into a Regulatory Agreement with the Town of Barnstable to redevelop the properties 110 School Street and 53 South Street, Hyannis. The properties are shown on Assessor's Map 326 as Parcels 121 and 125. They are zoned HD – Harbor District. The Applicant proposes to demolish all existing improvements and construct a multi-family residential condominium complex consisting of 33 market rate units in nine buildings. Parking will be located in underground garages, with street-level guest parking. Proposed accessory improvements include a fountain area, swimming pool with pool deck, courtyard area and trash sheds. The Applicant seeks multiple waivers from the zoning ordinance and general ordinances. *Continued from February 13, 2017, March 13, April 24, 2017, May 22, 2017, and June 26, 2017.*

Attorney John Kenney in attendance. He makes reference to the documents submitted. Exhibit D, minutes from Hyannis Main Street Waterfront Historic District Commission (HHDC), and Department of Public Works (DPW) letter and Water Dept. letter. He refers to the Housing Committee letter, Exhibit E. Their offer remains the same - 3 floating workforce units to be designated.

Chair Ray Lang asks for public comment:

Attorney Valerie Moore, of Nutter, Mclellan and Fish. She represents the Steamship Authority. They are asking to deny as to the height of the development, it will interfere with their communications system, they have not been able to reach an agreement. Also the density of the bldg. bringing so many residents without warning could lead to problems, they are not conducive to residents – Steamship operation.

Robert Hall in attendance. His view is abutting, (not an abutter). He thinks this would have a devastating effect on the community. He is in opposition to this project.

Victor Skende in attendance. He is an abutter on South St. He is in support of this project. Need the tax money/town. The density: Cape Cod Commission stated that needed 30 or more to be viable. Potential buyers aren't concerned about density. Cape Cod Hospital and Lewis Bay Ct. are huge in height. Hyannis Harbor Hotel also massive structures in the area. Character of the neighborhood went when Steamship Authority came in. Historical information of the neighborhood. Would like to see contributing to tax base. Time to begin the development of Hyannis, not just the port for the Steamship Authority.

Walter Brennan in attendance. Cape Cod Panel. This will contribute to the tax base. He is in full support of this project. He finds it hard to believe that Steamship Authority communication would be altered in this day and age.

Fred LaSelva directs/asks Valerie Attorney for Steamship Authority, why do they have this issue?

Attorney Valerie Moore states that there is an 8 ft. antenna, that reach smaller antennas on vessels, the bldg. would be blocking the frequency.

Fred LaSelva asks if there are any alternatives?

Attorney Valerie Moore, they have discussed a roof top possibly, this concern has not been resolved.

Attorney Kenney states that they are working on it, they are 95% done, they have no issues with the Steamship Authority, just some minor tweaks on the agreement. Can be done between now and then going to the Town Council.

Fred LaSelva clarifies there is a partial agreement. Water runoff issue.

Attorney Moore, no signed agreement/document at present. Submitted letter, Exhibit F, drainage issues, per her letter.

Attorney Kenney replies that this would have to go through at the next point with Town Council.

Dan Ojala explains the drainage design, storm water management. There was a peer review done by state. Conservation/Town Engineer has approved that it meets storm water standards. We may modify the existing language.

Fred LaSelva confirms that there is some agreement at least partial.

Robert Hall in attendance, again - clarifies that there are 5 stories, the big issue is that waivers are being asked for are an incredible amount of waivers. He did not miss clarify anything.

Attorney Kenney clarifies where this applicant lives. Does this applicant live in the Greenery? he refers to the minutes of the HHDC submitted, almost every comment is favorable. Clarifies that the original design was withdrawn from HHDC.

Stephen Helman states that he likes the idea of a development there, but he cannot get over the dramatic increase of the height/mass, zoning waivers being requested. He's uncomfortable with the refusal to meet under Chpt 9 affordable housing, he cannot get past that.

Paul Curley states that this is an excellent project for the town. He thinks Applicant has done an excellent job trying to address issues, he does think that they should do affordable housing. He will support if can get some affordable housing.

Steven Costello states that he thinks it's a great idea. Now the harbor is not quaint, it's a thoroughfare. He likes the Ocean Street upgrades. By boat the first thing is the Cape Cod Hospital view and then the Greenery Bldg. At present it is a waste of space. All the entities involved have acted like a funnel. He is in favor of having the workforce housing. He is in favor of it. He thinks good use for the space.

David Munsell states that the Growth Incentive Zone (GIZ) gives permission to waive certain restrictions etc. The Open Meeting Law (OML) prevents the Board, from communicating/discussing and making decisions. He is in support of the project. There are already tall buildings in the area.

Mary Barry states that there were really 3 things: density, affordable housing waiver, and HHDC approval. The Board had concerns with this. She is in favor of a project there. Maybe not as much density, 33 units, affordable housing – she would like to see specifically where it would be to offset. HHDC is there for a reason, try to get their approval. Can't stay that way forever.

Ray Lang states that as a Board, would like to present to Town Council (TC) a recommendation. Hopefully TC would accept their recommendation. Clarifies no change in request for waivers.

Fred LaSelva states that his feeling is that the Planning Board (PB) B has an opportunity to set a tone. In this instance we should respect the rules and regulations that have been put forth, the development, is potentially a good one: the waivers are enormous that are being asked. This PB represents integrity. He is suspect based on not giving up any waivers, if more amenable to some flexibility, then that would go a long way to following the rules.

David Munsell replies that there are always waivers with big/type of projects. They are part and that's why the GIZ was started in the first place.

Attorney Kenney clarifies that they did show some flexibility, they did this and offered 3 workforce units. This is in the GIZ, designated for a Regulatory Agreement, not ignoring the rules/regs of the town, can only do this because the project is in the GIZ, and waivers can be granted. Not derogating by not using the waivers.

Stephen Helman states that we has never issued waivers to this extent. They made an offer for workforce, not affordable housing.

Stuart Bornstein comments that there is another project coming down the pipeline. The average cost is about \$800,000 a piece. This is 3 to 400,000 worth of tax money that the Town will lose.

Four requested waivers: Reference to Draft Reg. Agrmnt. Exhibit G.

**No. 23. Waiver asked for
33 units**

Fred LaSelva favors a lower number.

Stephen Helman is opposed.

Paul Curley is in favor.

Mary Barry is in favor.

David Munsell is in favor.

Ray Lang is opposed.

4 approved

3 opposed

Building Height

Mary Barry reads into record, Exhibit F, Draft Reg. Agreement waivers.

No. 23, section b.

Fred LaSelva is in favor of lower height - opposed.

Stephen Helman is opposed.

Paul Curley is in favor

Mary Barry is opposed.

David Munsell is in favor.

Steven Costello is in favor.

Ray Lang is opposed.

4 opposed

3 approved.

No. 24. Affordable Housing Requirements

Fred LaSelva is opposed.
Stephen Helman is opposed.
Paul Curley is in support if identify properties.
Mary Barry is in support if identify properties.
David Munsell is in favor.
Ray Lang is opposed
Steven Costello is in support if identify properties.

3 opposed
4 approved

No. 24. HHDC Approval

Fred LaSelva is opposed.
Stephen Helman is opposed.
Paul Curley is in favor.
Mary Barry is opposed.
David Munsell is in favor.
Steven Costello is opposed.
Ray Lang is opposed.

5 opposed
2 approved

Town Attorney Ruth Weil in attendance. She gives a brief explanation as to affordable housing being rental possibly, the Housing Committee wanted specific criteria. They may not need a waiver if will provide offsite housing at 80% off sale, she thinks that is permissible.

Attorney Kenney states that he did meet with Town Manager. His impression was that as long as it didn't have any presidential issues. Sidewalks, dedication for easement..

Dan Ojala comments that they did do a review of sidewalks previously. Will be more travel way than what is there now. 2 dedicated sidewalks, better in terms of access.

Paul Curley makes a motion to recommend to Town Council for the approval of this Regulatory Agreement as written but with their recommendations for the waivers to be considered, seconded by Steven Costello, so voted unanimously.

Paul Curley moves to close the public hearing, seconded by Stephen Helman, so voted unanimously.

Town Attorney Ruth Weil states that the agreement is forwarded and some license issues to be worked out but the agreement will reflect the waivers that were requested and the waivers that were granted.

Application No. 2017-02

Rockland Trust Company

Rockland Trust Company seeks to enter into a Regulatory Agreement with the Town of Barnstable to use the existing structure at 765 Main Street, Hyannis as a branch bank with drive through. The property is shown on Assessor's Map 290 as Parcel 098. It is zoned OM. The Applicant proposes to renovate the existing building, reconfigure the parking to eliminate the spaces that back out into the street, and upgrade landscaped areas and the stormwater system. *Continued from June 12, 2017*

Attorney David Lawler in attendance. He hands out a plan, Exhibit H/Matt Eddy hands out. He explains how the ATM would be used. Two exit aisles for the ATM. Because of rotary traffic. Site plan has seen this. Agreed to replace all the sidewalks to make them conforming.

Mary Barry asks clarification of the second entrance.

Ray Lang asks for clarification of frontage on the plan and curb cuts/reductions.

Attorney Lawler replies that they are reducing down to 20 ft. provides a better traffic flow. The 3 curb cuts, because flow behind, it diffuses and allows for better access.

Matt Eddy replies that its 280 ft. frontage on Main Street. There are 10 existing parking spaces that have 90 ft.

Chair Ray Lang entertains a motion , moved by Stephen Helman to approve as written and recommendation to Town Council, seconded by Steven Costello, so voted unanimously.

Approval of Minutes: June 27, 2016, August 8, 2016

Chair Ray Lang entertains a motion to approve both sets of draft minutes, Mary Barry moves to approve both sets, seconded by Paul Curley, so voted unanimously.

Election of Officers: Election of Chair, Vice Chair and Clerk

Chair Ray Lang appoints Steven Costello and Paul Curley to be the nominating Committee to designate nominations for Election of Officers to the Planning Board at their next meeting of July 10, 2017.

Correspondence:

Cape Cod Commission Notice of Hearing – Eco-Site Wireless Communication Facility – 270 Quaker Meetinghouse Rd, East Sandwich

Cape Cod Commission Notice of Hearing – Minor Modification to Rose Motel-Lakeside Commons Project

Matters Not Reasonably Anticipated by the Chair:

Chair Ray Lang entertains a motion to adjourn, moved by Paul Curley, seconded by Stephen Helman, so voted unanimously.

The meeting adjourned at 10:00 p.m.

Respectfully Submitted


By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

Sept. 14, 2020

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** – Sub. No. 825 modification – Deed document
- Exhibit B** – Special Permit No. 2017-003 – Bornstein - Staff Report
- Exhibit C** – Special Permit No. 2017-003 – Bornstein - Plan
- Exhibit D** – Regulatory Agrmnt No. 2017-01 – Bornstein – documents submitted
- Exhibit E** – Regulatory Agrmnt No. 2017-01 – Bornstein – Housing Committee Letter
- Exhibit F** - Regulatory Agrmnt No. 2017-01 – Bornstein – Drainage Letter/Steamship Authority
- Exhibit G** – Regulatory Agrmnt No. 2017-01 – Bornstein – Draft Reg. Agrmnt waivers requested
- Exhibit H** – Regulatory Agrmnt No. 2017-01 – Bornstein – Site Plan

APPROVED