



# Town of Barnstable Planning Board



[www.town.barnstable.ma.us/PlanningBoard](http://www.town.barnstable.ma.us/PlanningBoard)

### Board Members

Steven Costello – Chair   Jeffrey Swartz – Vice Chair   Patrick Foran - Clerk   Mary Barry   Stephen Robichaud   Aimee Guthinger   Robert Twiss  
Mathew Levesque – Town Council Liaison

### Planning & Development Dept. Staff Support

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

## Town of Barnstable PLANNING BOARD Minutes November 9, 2020

BARNSTABLE TOWN CLERK

12/3/20

|                                |         |
|--------------------------------|---------|
| Steven Costello – Chairman     | Present |
| Jeffrey Swartz – Vice Chairman | Present |
| Patrick Foran – Clerk          | Present |
| Marry Barry                    | Present |
| Stephen Robichaud              | Present |
| Aimee Guthinger                | Present |
| Robert Twiss                   | Present |

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

The Planning Board’s Public Hearing will be held at 7:00 p.m. by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

- The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>**
- Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. **Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:**

Link: <https://zoom.us/j/98902811837>

Phone: 888 475 4499 US Toll-free   Meeting ID: 989 0281 1837

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting [Karen.herrand@town.barnstable.ma.us](mailto:Karen.herrand@town.barnstable.ma.us) or calling 508-862-4064.

**Call to Order:** Introduction of Board Members and Staff Members

**Attendance Roll Call:**

**Steven Costello**  
**Jeff Swartz**  
**Patrick Foran**  
**Mary Barry**  
**Stephen Robichaud**  
**Aimee Guthinger**  
**Robert Twiss**  
**All in attendance.**

**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.

**Chair Steven Costello mentions the schedule - move Dec. 28<sup>th</sup> to Dec. 14<sup>th</sup>. Is all ok with this schedule change. Note: Cancel December 28, 2020, meeting and schedule December 14, 2020, meeting.**

**Subdivisions**

**Subdivision No. 454 – Amendment to the Whistleberry Settlement Agreement**

The Planning Board will consider a request to amend the most recent Settlement Agreement that in turn amended the Development Agreement regarding this subdivision. The proposal is to allow the Developer/Owner to transfer ownership of three lots currently under covenant with the Planning Board to the Whistleberry Homeowners' Association, subject to the existing Covenants, for the Association to then sell the lots to the public with all proceeds from the lot sale/s being placed in escrow to fund the subdivision upgrades as previously agreed. The Association will join as a guarantor of the Settlement Agreement performance.

Attorney McLaughlin, Assistant Town Attorney in attendance. Gives a history of the subdivision. Settlement Agreement – Developer had work to be done. Homeowners Assoc. (HOA) reached an agreement – 3 lots to be transferred to the HOA from the Developer and will take over full responsibility. Town Engineer to sign off when it is ready. Covenants would remain in place and HOA will take over. Proceeds will be taken into an escrow agreement to be held by Attorney Schultz and Attorney Brian Wall. Not to be dispersed except for the work to be done. Hoping the market conditions will capture a quick sale – value of market good. Been doing some extensive work. By next spring hopefully. Legal recommends this amendment for this.

John Mercaldo in attendance, President of Whistleberry Association. They are trying to get done. This has been very lengthy. The monies would cover the cost – over \$450,000 worth of road and drainage work to be done.

Jeff Swartz asks what happens if the real estate market is not as favorable. How will the difference be made up? Plan B?

Attorney McLaughlin replies that the HOA is reasonably well funded to cover some or all of any deficit. 3 lots would represent the full value, estimating. The Town is not under any obligations to settle this. The HOA has significant good faith to get this done.

Chair Steven Costello asks what are thoughts for a potential sale of these lots?

Attorney McLaughlin states this information is with the HOA and wants to keep the Town out of the escrow situation. Two attorneys involved will deal with the expenditures.

**Motion made by Mary Barry to amend the Settlement Agreement and General Release between the Town of Barnstable, Whistleberry Residents Association, Inc. Daniel Hostetter Jr., Trustee of Eagle Trust and**

Jacques Morin, et al to transfer ownership of the three lots currently under covenant with the Planning Board to the Whistleberry Homeowner's Association, subject to the existing Covenants, seconded by Jeff Swartz,

**Roll Call Vote:**

Steven Costello - aye

Jeff Swartz - aye

Patrick Foran - aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

Bob Twiss - aye

So voted unanimously.

**Approval Not Required Plans**

Craig M. Coombs and Denise M. Coombs have submitted an ANR plan entitled "Plan of Land of #551 Bumps River Road & #0 Bumps River Road Osterville, MA prepared for Coys Brook Landscaping" dated October 8, 2020, drawn by Down Cape Engineering, Inc. *Continued from October 26, 2020.*

Dan Ojala in attendance, Down Cape Engineering, Inc. He gives an explanation of the revised plan, Exhibit A. For conveyance purposes. Taxes have been paid. Revised plan had shape number count adjusted. Unique piece because agricultural bond. Combining with parcel B. Perimeter plan. Not separate building lots.

Elizabeth Jenkins confirms that it meets the standards for an ANR.

**Motion made by Aimee Guthinger, to endorse the land division entitled "plan of Land of #551 Bumps River Rd. and #0 Bumps River Rd., Osterville MA prepared for Coys Brook Landscaping" prepared and stamped by Daniel A. Ojala of DownCape Engineering dated November 9, 2020, as an Approval Not Required Plan, seconded by Jeff Swartz,**

**Roll Call Vote:**

Steven Costello - aye

Jeff Swartz - aye

Patrick Foran - aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

Bob Twiss - aye

So voted unanimously to approve.

**Zoning Amendments**

ZA TC Item No. 2021-010 MAH District- 3 Whitehall Way. Proposal to amend the Town of Barnstable Zoning Ordinance by amending Article II, Section 6, The Zoning Map of the Town of Barnstable to rezone property from the Residence C-1 Zoning District to the Multifamily Affordable Housing Zoning District. The proposed Zoning Map Amendment would expand the MAH District to include the adjoining parcel at 3 Whitehall Way. The prospective developer of the MAH parcel purchased the property and has agreed to deed restrict it from development. The parcel would be utilized for the purpose of calculating density, setbacks, and compliance with open space requirements. *Continued from September 28, and October 26, 2020.*

**Special Permits**

SPECIAL PERMIT NO. 2020-03 - Standard Holdings, LLC, seeks a Special Permit pursuant to Section 240-16.1 C(1) - Multi-family affordable housing development to allow for proposed construction of approximately 70,000 square feet multi-family housing, 53 dwelling units of which 14 will be affordable units. The property is 850 Falmouth Road and 3 Whitehall Way, Hyannis, MA and is shown on Assessor's Map 250 as Parcels 036 and 160. The subject property (850 Falmouth Rd.) is located in the MAH - Multi Family Affordable Housing District and the GP - Ground Water Protection Overlay District. *Continued from September 28, and October 26, 2020.*

Attorney Lawler in attendance for both items. Tim Tellman and [redacted] in attendance. Explains the project. The old Whitehall Manor. Very difficult for affordable housing to be built due to prices of land/value. Series of programs State - HDIP – Housing Develop Incentive Plan. Developers get certain tax benefits. MAH designed for this particular area by Town Council. Multi Family Affordable Housing (MAH). On November 19<sup>th</sup>, will be a zoning amendment presented to Town Council. They are seeking two zoning amendments – this one tonight/on this agenda is for a little piece/triangular piece of property that they are seeking to add. Deed restriction to develop this portion, they would use this land for calculations, could build 53, because the open land will under the MAH. In perpetuity as a wooded state. The second amendment on Nov. 19<sup>th</sup> is to readjust the requirements under the MAH – now states 20% affordable. Under State HDIP program, requires to have 80% market. Regulation inconsistent with the Town of Barnstable. Would like to reduce to 18% the component. Would like to do 10 units at 50% AMI. Less units but providing housing to a group whom couldn't afford. By having the 19% - relief.

He refers to the general floor plan/composite, Exhibit B. He reviews the layout. This project would meet both market rate and affordable built. There's a tremendous need for the 50%. We would have to give another notice if Town Council makes this viable. Wants to partner with the Town for this great need.

Jeff Swartz states that has been an eyesore for a long time. He likes that this plan will not be requesting a lot of variances. This is a need at all levels. The Cape does not get it's fair share of/for affordable from the State/Governor.

Attorney Lawler replies that some programs have various requirements. These projects are risky. Trying to benefit the community/Town as well as stay in business.

Patrick Foran asks if residents would get priority?

Attorney Lawler states may not be able to do that – not legal.

Elizabeth Jenkins interjects this is not legal under the Fair Housing Act. Can write a local preference into the deed restrictions to include a local preference.

Patrick Foran asks about the percentage needed to be met.

Elizabeth Jenkins replies we have about 7.2% working towards the 10% goal. Need to supply the housing at all levels to all.

Mary Barry asks – 53 is total, how will be divided up?

Attorney Lawler replies 42.4 or so, have to have 43. 53 total units. Mostly 1 bedrooms. 43 market and 10 affordables.

Mary Barry asks what would the affordables be?

Attorney Lawler replies – the percentage has to be consistent with the need for the affordability. They would do the math and designate as such.

Mary Barry asks about parking, enough. Bedrooms.

Attorney Lawler replies no 3 bedrooms, 1 and 2 bedrooms – 44 2 bedrooms and 9 1 bedrooms. Whatever the formula would be consistent.

Mary Barry asks is the plan to keep as apartments for the future, any other plans in future.

Attorney Lawler replies no, just these apartments.

Stephen Robichaud asks about the relationship with the 3 Whitehall Way, merged?

Attorney Lawler, possibly an ANR, but yes merged, it would become part of the existing lot. With the addition of this parcel no setback relief needed, within the lot coverage. The most important is that it increases the number of units we can have.

Stephen Robichaud confirms the connections that will be removed/go away with the combination of this parcel – 3 Whitehall Way.

Chair Steven Costello states that it makes sense . When take affordability down to 50% this is a significant possibility for people to afford. Seeing a lot of progress for housing in general in/for our community.

Elizabeth Jenkins states that will have to get some things done at Town Council level, will have to come back to the Dec. 14<sup>th</sup>, 2020, Planning Board meeting. This will need 4 different approvals, Town Council Zoning Amendments, Special Permit, Multi Family, and update to our housing develop housing plan for tax relief and tax credits.

Attorney Lawler comments that the GIZ and this allow for the flexibility/ability to do these programs.

**Chair Steven Costello entertains a motion to continue these items (the Zoning Amendment and the Special Permit) to December 14<sup>th</sup> 2020, Agenda,**

**Roll Call Vote;**

**Steven Costello – aye**

**Jeff Swartz – aye**

**Patrick Foran – aye**

**Mary Barry – aye**

**Stephen Robichaud - aye**

**Aimee Guthinger - aye**

**Bob Twiss - aye**

**So voted unanimously.**

**The public hearing will be opened at the December 14, 2020, meeting.**

**Approval of Minutes**

October 26, 2020, draft minutes

**Chair Steven entertains a motion to approve the draft minutes of October 26, 2020, moved by Jeff Swartz, seconded by Mary Barry,**

**Roll Call Vote;**

**Steven Costello - aye**

**Jeff Swartz - aye**

**Patrick Foran – aye**

**Mary Barry – aye**

**Stephen Robichaud – aye**

**Aimee Guthinger – aye**

**Bob Twiss - aye**

**Matters Not Reasonably Anticipated by the Chair**

**Future Meetings: November 23, 2020, and December 28, 2020, @ 7:00 p.m. Note: December 28<sup>th</sup> to be cancelled and December 14, 2020 to be scheduled**

**Adjournment**

**Chair Steven Costello entertains a motion to adjourn, moved by Jeff Swartz, seconded by Mary Barry,**

**Roll Call Vote;**

**Steven Costello - aye**  
**Jeff Swartz - aye**  
**Patrick Foran - aye**  
**Mary Barry – aye**  
**Stephen Robichaud - aye**  
**Aimee Guthinger – aye**  
**Bob Twiss - aye**

The meeting adjourned at 8:12 p.m.

Respectfully Submitted by Karen Herrand, Principal Assistant, Planning & Development

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 (revised 11/9/2020) Coombs 551 and 0 Bumps River Rd., Osterville

**Exhibit B** – Special Permit No. 2020-03 – Composite Plan/Floor/Layout

APPROVED