



Town of Barnstable

Zoning Board of Appeals

Agenda

Wednesday, December 11, 2013

2nd Floor Hearing Room – 367 Main Street, Hyannis, MA

Call to Order

Introduction of Board Members

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Approval of Minutes

Minutes from September 25, 2013 and October 9, 2013

Executive Session Minutes

The Chair will announce action taken on the following executive session minutes:

- February 28, 2007 - Tonsberg v. Zoning Board of Appeals;
- May 23, 2007 - Nolan v. Zoning Board of Appeals;
- September 26, 2007 - Cotuit Oyster v. Zoning Board of Appeals, Martin v. Zoning Board of Appeals
- April 11, 2007 - Ellis v Zoning Board of Appeals, Rolling Hitch v. Zoning Board of Appeals
- April 16, 2008 - Bay Point v. Zoning Board of Appeals
- March 9, 2011 - Limoncelli v. Town of Barnstable
- April 27, 2011 - Limoncelli v. Town of Barnstable
- June 27, 2012 - Bonner v. Zoning Board of Appeals
- April 28, 2004 - Settlers Landing v. Zoning Board of Appeals
- August 22, 2012 - Marvin v. Zoning Board of Appeals and Gregory v. Zoning Board of Appeals
- March, 27, 2013 - Dupuy v. Zoning Board of Appeals
- October 9, 2013 - Marvin v. Zoning Board of Appeals and Gregory v. Zoning Board of Appeals

Old Business

7:00 PM Appeal No. 2013-039

Swann

Dr. Marcus Swann, as lessee, has applied for modification of Special Permit No. 2007-070-A to allow one of the four professional office suites to be utilized as a dental office. Condition No. 3 of the permit currently prohibits use of the building for medical or dental offices. Special Permit 2007-070 modified Permit Nos. 1984-92 and 1980-35 and allows for pre-existing nonconforming use of a pre-existing nonconforming structure. The property is located at 2957 Falmouth Road (Route 28), Marstons Mills, MA as shown on Assessor's Map 121 as Parcel 009. It is in a Residence F zoning district and the Groundwater Protection Overlay District.

Opened: July 24, 2013, continued to September 11, 2013, Continued to October 9, 2013 and to December 11, 2013. No members assigned. No testimony taken

The Applicant has requested to withdraw this appeal without prejudice.

New Business

7:00 PM Appeal No. 2013-070

Cumberland Farms, Inc.

Cumberland Farms, Inc. has petitioned for a Special Permits to completely demolish an existing multi-tenant building, convenience store/kiosk, canopy and six fuel dispensers and reconstruct a new 4,426 square foot convenience store, a canopy (reduced in area), and three fuel dispensers. The Applicant seeks Special Permits pursuant to §240-93B and §240-94 for a preexisting nonconforming gas station use in the Wellhead Protection Overlay District. A Conditional Use Special Permit is requested to allow retail use in the Highway Business District. A Special Permit is requested pursuant to 240-93(B) to alter lawfully preexisting nonconforming structures. The existing and proposed structures do not conform to the current setback requirements in the HB District. The property is located at 395 West Main Street, Hyannis, MA as shown on Assessor's Map 269 as Parcel 116. It is in the Highway Business Zoning District and Wellhead Protection Overlay District.

7:05 PM Appeal No. 2013-071

Reed/Bergervine

Melvin K. & Virginia M. Reed, as Trustees of the Reed Real Estate Trust and owners of 159 Donegal Circle, and Debra I. & Michael E. Bergervine as owners of 171 Donegal Circle have applied for a variance from §240-13.E – Bulk Regulations, Minimum Lot Area and Side Yard Setback and §240-36D, the two-acre minimum lot area requirement of the Resource Protection Overlay District (RPOD). Applicant Reed discovered a garage constructed on their property many years ago was built partially on their neighbor's property creating an encroachment and sideline setback violation. The Applicants seek to reconfigure the lot line to create two new lots. The lots are nonconforming to the minimum lot area requirements of the RC District and RPOD. The land swap would increase the extent of the lot area nonconformity for 171 Donegal Circle. The properties are located at 159 and 171 Donegal Circle, Centerville, MA as shown on Assessor's Map 169 as parcels 035 and 036. They are in the Residence C Zoning District and Resource Protection Overlay District.

7:05 PM Appeal No. 2013-072

Reed

Melvin K & Virginia M. Reed, as Trustees of the Reed Real Estate Trust have applied for a variance pursuant to §240-13.E – Bulk Regulations, the 10 foot rear yard setback requirement. The Applicants seek relief from the setback requirements as they recently discovered a small portion of their existing garage is built as close as 6.5 feet from the rear lot line. The property is located at 159 Donegal Circle, Centerville, MA as shown on Assessor's Map 169 as parcel 035. It is in the Residence C Zoning District and Resource Protection Overlay District.

Other Business

Appeal No. 2013-016 – Peck

Appeal of the Building Commissioner

Appeal of a Cease and Desist Order for automotive repair business. Appellants contend operation is a preexisting nonconforming use. 3800 Falmouth Road/Rte 28, Marstons Mills, MA. Map 058 Parcel 001.

Appeal No. 2013-069 – Peck

Special Permit to Expand a Preexisting Nonconforming Use

Request for a Special Permit pursuant to 240-94B to expand existing boat maintenance and repair business to allow for repair and service of automobile engines. 3800 Falmouth Road/Rte 28, Marstons Mills, MA. Map 058 Parcel 001.

The Applicant has requested to withdraw these appeals without prejudice. This request was received prior to notice of the public hearing. These appeals were not advertised/noticed.

Correspondence

Received November 12, 2013 from Cape Cod Commission regarding Minor Modification - Type #1 for Cape Cod Hospital

Received November 13, 2013 from Cape Cod Commission regarding Minor Modification - Type #1 for OCW Retail/Whole Foods

Letter dated November 15, 2013 from Office of Town Attorney RE: AMA Nantucket, Inc., dba Marvin Design Gallery. SJC Joint motion to continue from January 9, 2014 to January 13, 2014.

Other Business

Next Regularly Scheduled Hearings: January 8, 2014; January 22; February 12; February 26

Adjourn