



Town of Barnstable
Zoning Board of Appeals
Minutes
January 25, 2012

Laura Shufelt - Chair	Absent
William Newton – Clerk	Present
Craig Larson	Present
Alex Rodolakis	Present
Brian Florence	Present
George Zevitas	Present

William Newton opens the hearing at 7:02 PM.

Introduction of Board Members – ***Board members introduce themselves.***

William Newton indicates that there are two appeals but that the second appeal for Elwell is going to be continued.

William Newton opens the Elwell appeal and reads it into the record:

7:10 PM

Appeal No. 2012-003 - **New**

Todd C. Elwell

Todd C. Elwell has applied for a variance to Section 240-11(A)(1) Principal Permitted Uses in the Residence B District. The Applicant is requesting a variance to allow an existing accessory cottage to be used as an affordable housing unit. The subject property is located at 45 Newton Street, Hyannis, as shown on Assessor's Map 308 as Parcel 158. It is in the Residence B Zoning District.

Motion is made by Brian Florence and seconded by Alex Rodolakis to continue this to February 8, 2012 at 7:00 PM

Vote:

All in favor

CONTINUED TO FEBRUARY 8, 2012 AT 7:00 PM

At 7:05 PM, William Newton calls the DPB appeal and reads it into the record:

7:00 PM

Appeal No. 2012-001 - **New**

DPB Consulting Services for
Starbucks Corporation

DPB Consulting Services, representing Starbucks Corporation has petitioned for a Conditional Use Special Permit in the Highway Business District pursuant to Section 240-25 C(1) to change an existing retail use of approximately 1,624 square feet into a restaurant/food establishment use with approximately 24 seats. The subject property is located at 655 Iyannough Road, Unit No. 6, Hyannis, MA as shown on Assessor's Map 311 as Parcel 008. It is in the Highway Business and Business zoning districts.

Dan Brennan is representing the applicant and indicates that with him tonight are John Morgan – Traffic Consultant and a representative from Starbucks coffee. Mr. Brennan indicates that they went to Site Plan Review meeting and requested that they add some two handicapped spaces, some crosswalk revisions and a curb cut which has now been approved by Site Plan. He asks if the board has questions.

William Newton clarifies that there will be no food preparation in the building and that they will not get into food prep at the site.

William Newton asks if there is anyone from the public who would like to speak either in favor or in opposition.

Jim Kinsela, resident of Marstons Mills who also writes for the Barnstable Enterprise asks why this applicant would need a Conditional Use Special Permit in this Business District.

Elizabeth Jenkins, planner for the Zoning Board of Appeals, indicates that the subject parcel is in a split zoning district and located in both the Business and Highway Business zoning districts and that the tenant space in question is in the Highway Business district. She indicates that this location was formerly occupied by a retail use and the proposed use is categorized under the zoning ordinance and classified for restaurant and food establishments. Thus, there is a change of use and requires a Conditional Use Special Permit.

Brian Florence asks Mr. Brennan if he has seen the staff report and asks if the applicant is okay with the conditions therein. Mr. Brennan indicates that they are okay with the conditions. Elizabeth Jenkins indicates that the staff report was amended today and asks Mr. Brennan if he has the updated version, which he indicates that he does.

Craig Larson does findings:

In Special Permit 2012-001, DPB Consulting Services, representing Starbucks Corporation has petitioned for a Conditional Use Special Permit in the Highway Business District pursuant to Section 240-25 C(1) to change an existing retail use of approximately 1,624 square feet into a restaurant/food establishment use with approximately 24 seats. The subject property is located at 655 Iyannough Road, Unit No. 6, Hyannis, MA as shown on Assessor's Map 311 as Parcel 008. It is in the Highway Business and Business zoning districts.

The Applicant seeks a Conditional Use Special Permit to establish a restaurant/food service establishment, a 24-seat Starbucks Coffee, in a tenant space within the Christmas Tree Plaza shopping center in Hyannis. According to the Applicant's filing with the Health Division, there is no on-site food preparation or baking proposed; all food items are prepared off-site and sold pre-packaged.

The Site Plan Review Committee reviewed an application for the new tenant at their formal meeting on January 12, 2012 and has been approved. The subject property is located in both the B Business and HB Highway Business zoning districts, but the subject tenant space is located entirely within the HB. Section 240-

25(C)(1) requires restaurant or other food establishments to obtain a Conditional Use Special Permit from the Board.

Craig Larson makes a motion that this board make the following findings:

1. Section 240-25(C)(1) of the Barnstable Zoning Ordinance permits restaurants and other food establishments in the HB District provided a Special Permit is obtained from the Zoning Board of Appeals.
2. The Site Plan Review committee reviewed the proposed change of use at their formal meeting on January 12, 2012. The Building Commissioner approved the proposed Site Plan, as evidenced by the letter dated January 23, 2012
3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected
4. The use does not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community

Seconded by Brian Florence

Vote:

AYE: George Zevitas, Brian Florence, Alex Rodolakis, Craig Larson, William Newton

NAY: None

Craig Larson makes a motion based on those findings to approve the relief being sought with the following conditions: as printed on staff report, pages 1 – 7 dated January 25, 2012.

Seconded by Brian Florence.

Vote:

AYE: George Zevitas, Brian Florence, Alex Rodolakis, Craig Larson, William Newton

NAY: None

GRANTED WITH CONDITIONS

A motion is made by Brian Florence and seconded by George Zevitas to adjourn.

Vote:

All in favor.

Meeting adjourned at 7:15 PM