



**Town of Barnstable
Zoning Board of Appeals
Minutes**

Wednesday, May 22, 2013

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

TOWN CLERK

BARNSTABLE

13 JUL 10 PM 12:21:56

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

Also present were Elizabeth Jenkins – Principal Planner and Carol Puckett – Administrative Assistant.

As a quorum has been met, Laura Shufelt opens the hearing at 7:03 PM

Call to Order

Introduction of Board Members

Members present introduce themselves.

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 and 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

On April 19, 2013, the Board Chair reviewed four sets of Executive Session minutes with the Director of Growth Management, the Town Clerk and the Town Attorney's office. Based on the review, the Board Chair announces as follows:

The Chair has approved the Executive Session minutes for Executive Sessions held on the following dates and has authorized the release of these minutes which are available at the Town Clerk's Office:

January 13, 2004

March 2, 2005

November 19, 2008

May 20, 2009

Brian Florence arrives.

Laura Shufelt reads the following into the record:

Old Business

7:00 PM Appeal No. 2013-012 - Continued

Wilson

Catherine Wilson has appealed a decision of the Building Commissioner issued February 12, 2013, pursuant to Section 240-125(B)(1)(a) Appeals from an Administrative Official. The Building Commissioner ordered the appellant's property to be

restored to a single-family dwelling upon finding that a family apartment in the basement had been vacated. The Appellant claims the apartment is not subject to the family apartment regulations (§240-47.1(5)), but rather to the conditions of Special Permit 1998-119 and Section 3-1.1(3)(D) of the Zoning Ordinance as it existed in October 1998. The Appellant seeks to keep the apartment in tact and allow for use of the bedroom for occasional guests. The subject property is located at 400 Mariner Circle, Cotuit, MA as shown on Assessor's Map 024 as Parcel 086. It is in a Residence F Zoning District.

Opened March 27, 2013. Continued to April 24, 2012. No members assigned. Continued to May 22, 2013.

New Business

7:00 PM

Appeal Nos. 2013-013 & 2013-014

Wilson

In Appeal 2013-013, Catherine Wilson has applied to modify Special Permit 1998-119, issued pursuant to the family apartment regulations of the Barnstable Zoning Ordinance, formerly Section 3-1.1(3)(D) and currently 240-47.1. Further, in Appeal 2013-014 Catherine Wilson has applied for a variance from Section 240-47.1(A)(5) of the family apartment regulations, which requires removal of "all cabinets, countertops, kitchen sinks and appliances from the family apartment, and the water and gas services utilities [to be capped] and placed behind a finished wall surface" once the family apartment is vacated. The Applicant seeks to retain a 'wet bar' after abandonment of a family apartment. The subject property is located at 400 Mariner Circle, Cotuit, MA as shown on Assessor's Map 024 as Parcel 086. It is in a Residence F Zoning District.

Opened April 24, 2013. No members assigned. Continued to May 22, 2013.

Laura Shufelt states that there is a letter from the applicant's representative asking that the application be withdrawn without prejudice.

Motion is made by Laura Shufelt and seconded by William Newton to withdraw without prejudice..

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

At 7:06 PM, Laura reads the Bessey appeal into the record:

7:01 PM

Appeal No. 2013-015

Bessey

Palmer Bessey Jr. & Sarah Bessey have applied for a Special Permit pursuant to Section 240-91(H)(3) Demolition and rebuilding on nonconforming lots. The Petitioners seek to tear down the existing dwelling at 20 Sea Street and rebuild a new dwelling complying with lot coverage, floor-area ratio, and height requirements. The existing dwelling is set back 17.8' from Sea Street; the new dwelling is proposed to be set back 20' from Sea Street; the RF District requires a minimum front yard setback of 30'. The subject property is located at 20 Sea Street, Cotuit, MA as shown on Assessor's Map 033 as Parcel 007. It is in a Residence F Zoning District.

Opened April 24, 2013. No members assigned. Continued to May 22, 2013

Members assigned tonight: William Newton, Laura Shufelt, Alex Rodolakis, Brian Florence, David Hirsch Representative: Ted Schilling, Esq. Also with him tonight is the builder, Peter Pometti, from Cotuit. Attorney Schilling gives a summary of relief being requested. They have an as built plan dated May 2, 2013 and the proposed plan with the same date. The house proposed is a 3 bedroom single family home. He indicates that it meets height requirement and ratio requirements and they believe that allowing this special permit will not be more detrimental to the neighborhood.

Laura notes that there is no one in the audience for public comment.

William Newton asks if they have reached out to the neighbors. Attorney Schilling states that there are only three people who live on the street whom they have reached out to and who are in favor of this project.

The members discuss the design. They ask about the shed. Elizabeth Jenkins states that this was legalized by variance back in the 70's. She indicates that the relief is unclear and her interpretation is that it allowed for relief from bulk regulations and noted a setback violation and could be interpreted that it was pre-existing and was incorporated.

Alex Rodolakis clarifies that the applicant has seen the conditions and is okay with them.

William Newton makes findings

Palmer Bessey Jr. & Sarah Bessey have applied for a Special Permit pursuant to Section 240-91(H)(3) Demolition and rebuilding on nonconforming lots. The Petitioners seek to tear down the existing dwelling at 20 Sea Street and rebuild a new dwelling complying with lot coverage, floor-area ratio, and height requirements. The existing dwelling is set back 17.8' from Sea Street; the new dwelling is proposed to be set back 20' from Sea Street; the RF District requires a minimum front yard setback of 30'. The subject property is located at 20 Sea Street, Cotuit, MA as shown on Assessor's Map 033 as Parcel 007. It is in a Residence F Zoning District

Special Permit Findings

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
Section 240-91(H)(3)(a) allows for the complete demolition and rebuilding of a residence on a nonconforming lot provided that the setbacks of the new dwelling are equal to or greater than the setback of the existing dwelling. The existing dwelling has a front yard setback of 17.7 feet. The proposed dwelling has a front yard setback of 21.8 feet.
- Site Plan Review is not required for single-family residential dwellings.
- 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.
- The proposed dwelling is in compliance with all other setback requirements of the RF District.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 19%.
- The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished and rebuilt, whichever is greater. The proposed FAR is .24.
- The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The building height, in feet, shall be defined as the vertical distance from the average grade plane to plate. The proposed height is 17 feet to the highest plate.
- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Alex Rodolakis seconds.

Vote:

All in favor

Motion is made by William Newton to grant with the following conditions:

Conditions

1. Special Permit 2013-015 is granted to Palmer Q. Bessey, Jr and Susan I. Bessey for the demolition of an existing dwelling and rebuilding of a 2,546 square foot dwelling at 20 Sea Street in Cotuit.
2. The dwelling shall be reconstructed in substantial conformance with the site plan entitled Proposed Plan located at 20 Sea Street, dated May 2, 2013, drawn and stamped by Yankee Land Survey Co, Inc and the elevations and floor plans in the ZBA file.
3. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be located so as to conform to the required setbacks for the district and screened from neighboring homes and the public right-of-way.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. The redevelopment shall be in full compliance with all state and local Board of Health regulations for on-site septic disposal without variance or waivers from any state or local requirement.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Brian Florence seconds.

Discussion

Brian Florence has a problem with #5 and thinks it should be stricken. William Newton doesn't mind it being in there. Elizabeth Jenkins' perspective is that they should make a demonstration of adequate public facilities.

David Hirsch is in favor of it being included. Alex is in agreement with Brian. They discuss.

Laura is okay with taking it out but will ask for an opinion from legal.

Elizabeth Jenkins is comfortable with whatever the Board of Health approves.

They agree to omit condition #5 from the suggested conditions.

Vote:

AYE: Laura Shufelt, William Newton, Alex Rodolakis, Brian Florence, David Hirsch

NAY: None

GRANTED WITH CONDITIONS

Correspondence

None

Upcoming Meetings

June	12 & 26
July	10 & 24
August	14 & 28
September	11 & 25
October	9 & 23
November	13
December	11

Laura Shufelt will not be here on June 12th. June 26th is Laura's last meeting. She notes that she will no longer be the amnesty officer and that position is open for anyone who feels they have the time and ability for it.

Motion is made by Brian Florence and seconded by David Hirsch to adjourn.

Meeting adjourned at 7:27 PM.