



Town of Barnstable Zoning Board of Appeals



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Board Members

Craig Larson – Chair Brian Florence – Vice Chair Alex Rodolakis – Clerk George Zevitas - Member David A. Hirsch – Associate Member
Herbert Bodensiek – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Principal Planner - elizabeth.jenkins@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, April 23, 2014

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

Craig Larson - Chair	Present
Brian Florence – Vice Chair	Present
Alex Rodolakis – Clerk	Present
George Zevitas	Present
David Hirsch	Present
Herbert Bodensiek	Present

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

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.

Old Business

7:03 PM Appeal No. 2014-014

Connor

Peter and Ann Connor are petitioning for a Special Permit pursuant to Section 240-25.C(1) Highway Business District – Conditional Uses for the operation of a brewery in an existing commercial structure. The petitioners are proposing to brew and bottle hand crafted beer, along with associated accessory uses including retail sales, product tasting and small events. The property is addressed 485 West Main Street, Hyannis, MA as shown on Assessor’s Map 269 as parcel 223. It is in the Highway Business and Residence B Zoning Districts.

Continued from March 26, 2014

Members assigned tonight: Brian Florence Craig Larson, Herbert Bodensiek, David Hirsch.

Alex Rodolakis and George Zevitas recuse themselves and leave the dais.

Attorney Tardiff is here representing the applicants who are also present. He re-summarizes the relief being sought. Mr. Connors comments on Attorney David Lawler’s concerns at the last meeting regarding the parking and no food production on-site. Craig Larson asks for clarification on the hours of operation. Mr. Connors states that in the summertime they will be closing by 6:00 pm and doesn’t believe they will be open on Sundays.

Craig Larson asks if there is anyone here from the public who would like to speak either in favor or in opposition.

*Attorney David Lawler is representing Steve & Sue Fedele who own Steve & Sue's ParTea Freeze. His clients are concerned about the consumption of alcohol and believe it is detrimental to the neighborhood and are concerned about the configuration of the lot. He believes that this business would be too much on one lot. He notes that there is a school in close proximity to the proposed business points out parking areas of concern and believes the configuration creates a hazard in this area. He also notes problems with easement access and the loading area. He gives details on the easement. He submits pictures (**Exhibit A**). He states that since the last hearing there has been jersey barriers put in place on the easement line and which is creating a hazard.*

Margaret Flaherty Fosbre is an abutter who resides at 391 Straightway who can't see any way that this company would enhance the area and thinks it would deteriorate the neighborhood and could be placed elsewhere.

Craig Larson asks if there would be anything that the board could add to restrict it further to appease her. Mrs. Flaherty suggests a caretaker and have it in writing.

Attorney Tardif doesn't understand how this business is too small for this facility and rebuts Attorney Lawler's comments. He states that his clients had nothing to do with the jersey barriers as they do not currently own it and have no right to place anything on the property. Mr. Connors states that he did meet Margaret Flaherty in the past about stewarding the property and talks about the loading dock.

Craig asks Attorney Lawler for a rebuttal and if there is anything he would like to discuss with his client. Attorney Lawler asks time to consult with his client.

Craig Larson calls a two minute recess.

Attorney Lawler states that his client is concerned about safety issues, currently has speed bumps on his property and asks that they be ordered to extend them to the proposed business property to provide for safer passage. He asks Elizabeth Jenkins about safety signs and precautionary signs to be erected. Also, they ask that limiting to 6:00 PM be a condition.

Brian Florence asks if Attorney Lawler is okay with the business being closed to the public at 6:00 PM but still open to employees working there in regards to the brewing operations after hours. Attorney Lawler agrees. Mr. Connors is conducive to safety signs and speed bumps, tabling or traffic calming techniques. Mr. Connors would like to reserve the right to have private functions after 6:00 PM. They discuss private functions after 6:00 PM. Mr. Connors doesn't believe that the private functions would be large and could be conditioned to require a police detail. Mrs. Connors also thinks that the latest would be until 10:00PM for private functions and would only be off season for maybe January, February and March and very minimal. They discuss limiting number of public functions. Attorney Lawler still thinks 6:00 PM is appropriate. Craig thinks that they can condition this to limit the hours of operation and that after a year, with the support of their neighbors, they could come back to the ZBA for modification to change the hours. Craig asks about the dumpster and what materials would be dumped into it. They discuss access to the lot. Craig Larson states that Straightway is a private road. Attorney Tardiff will look into that. Attorney Lawler would like to work on it with them.

Brian Florence makes findings:

Peter and Ann Connor are petitioning for a Special Permit pursuant to Section 240-25.C(1) Highway Business District – Conditional Uses for the operation of a brewery in an existing commercial structure. The petitioners are proposing to brew and bottle hand crafted beer, along with associated accessory uses including retail sales, product tasting and small events. The property is addressed 485 West Main Street, Hyannis, MA as shown on Assessor's Map 269 as Parcel 223. It is in the Highway Business and Residence B Zoning Districts

Special Permit Findings

1. In Appeal No. 2014-014, Peter and Ann Connor have requested a Conditional Use Special Permit to allow an artisanal brewery in an existing 6,872 square foot building at 485 West Main Street.
2. Section 240-25(C)(1) of the Zoning Ordinance allows any use permitted in the B District with a Conditional Use Special Permit. Manufacturing uses are conditionally permitted and retail sales are permitted in the B District. Other uses including product tasting and occasional events will be accessory to the principal use of the property as a brewery.
3. The Site Plan Review Committee reviewed and approved the proposed site changes on March 18, 2014.
4. 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.
5. The proposed use of the property will not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.
6. The proposed commercial use and reuse of the existing building are consistent with the Local Comprehensive Plan, which designates the area for commercial infill and redevelopment.

Vote:

All in favor

Craig Larson states that on retail sales he would like to insert into Condition #1 that accessory products that have to do with the brewery and add to Condition #9 that the hours would be 10 to 6 daily. Elizabeth Jenkins recommends that the board make a condition that should state that they have the right to appear before this board in the future should they like to change the hours of operation condition. Ms. Jenkins also clarifies that #4(C) regarding the graveled are be designated as an employee parking area only and has crossed that condition out. Craig thinks they can cross that out. Also, she references traffic calming techniques. Craig Larson suggests they change it to "traffic calming measures to be approved by the Director of Growth Management administratively". Ms. Jenkins also suggests that there be a condition to locate the dumpster away from the residential development.

A motion is made by Craig Larson and seconded by Brian Florence to grant the appeal with the following conditions as printed on Page 3 and 4 of the staff report and as discussed here tonight.

Vote:

AYE: Brian Florence Craig Larson, Herbert Bodensiek, David Hirsch

NAY: None

GRANTED WITH CONDITIONS

Alex Rodolakis and George Zevitas return to the dais

7:00 PM Appeal No. 2014-015

Whole Foods Markets Group, Inc

Whole Foods Markets Group, Inc, as lessee, is petitioning to modify Special Permit No. 2013-055 to permit the addition and operation of two mobile food venues on the site. The property is located at 990 Iyannough Road and 65 Independence Drive, Hyannis, MA as shown on Assessor's Map 295 as Parcel 015-X02 and Map 294 as Parcel 004. They are in the Highway Business, Business, and Industrial Zoning District

Members assigned tonight: Brian Florence, Craig Larson, Alex Rodolakis, George Zevitas, Herbert Bodensiek Attorney Michael Scott is here representing the applicant. Also with him tonight with the Whole Foods team are Robert Donnelly and Matt Batista. Also, with him tonight Ben Anderson with Jacobs Engineering and Sean Kelly – traffic consultant. Attorney Scott states they did some follow up work regarding the concerns of this board at their last hearing. These include revisions for pedestrian safety, walkway, seating at the mobile food venues which they will discuss in greater detail. In addition they engaged a traffic study and reviewed circulation and adequacy of parking at the location. He provides the context for the modification

request. This store is undersized according to their other stores. This is an extension of the prepared venue if the store was larger. The venues are owned and operated by Whole Foods. Mr. Anderson with Jacob Engineering speaks and shows a rendered drawing of the site. He points out the aesthetics to the outside of the structure and states that based on the last meeting there were several concerns about public safety in the parking lot. He points out the mobile food venue in relationship to the store showing safety and access, more stripping, stripped crosswalk and created a direct path and sidewalk to take patrons around to the mobile food venue. He shows a large site plan of the access and parking area and an image from the entrance to the mobile venues. In the past they have reused shipping crates and revamped them with kitchen facilities. He shows connected steps up to the connecting retail area.

George Zevitas comments that he had thought that the conditions of the last relief granted for Whole Foods was that they were going to open and then come back before the board regarding the mobile food trucks. Attorney Scott states that at the last time there was not a limitation on when they could come back. Craig Larson states that their idea was that the board wanted to see how the traffic was affected with the store being open. i

Sean Kelley speaks and walks through the traffic assessment. He doesn't think there will be a significant increase in traffic because of the mobile food venues. They also looked at circulation. They did a parking demand analysis which he goes over. They are also proposing new signage and landscaping to the front of the site.

The board discusses. David Hirsch comments that he feels that the mobile venues are close to a restaurant use. Mr. Anderson clarifies that other stores have prepared foods, there will be no wait staff and is the same service as they supply in their other stores.

Brian Florence looks at the decision from their last appearance before the board and quotes where it is stated that the traffic patterns would be observed. Mr. Anderson asks if the board would be amenable to see how this works with the mobile venues in place and could they visit this after this season or in a year after they have been in operation to see if there are still any concerns.

Craig Larson asks if there anyone from the public who would like to speak either in favor or in opposition. No one speaks.

The board discusses.

Attorney Scott wants to consult with his clients.

Craig Larson calls a two minute recess.

Back in session.

Attorney Scott suggests that these units they are proposing are mobile, they would install in May, take them out at the end of the summer and knows there is a concern to see how the store operates. They could have it open for one summer and will monitor the parking and if it is deemed to not be working out, they will reassess it at the end of the summer.

Craig Larson asks the board if they are amenable to continue this to October or withdraw.

Attorney Scott agrees to continue this to October.

Motion is made by Craig Larson and seconded by Brian Florence to continue this to October 8, 2014 at 7:00 PM and with the understanding that they will sign a time extension.

Vote:

All in favor

CONTINUED TO OCTOBER 8, 2014 at 7:00 PM

New Business

7:00 PM Appeal No. 2014-017

Ventura

Richard and Catherine Ventura have petitioned for a Special Permit pursuant to §240-91(H) – Demolition and rebuilding on nonconforming lots. The petitioners are proposing to demolish an existing one-story single-family cottage on a lot containing less than 10,000 square feet and construct a new, larger, two-story single-family dwelling. The new dwelling will conform with current setback requirements. The property is located at 64 Commerce Road, Barnstable, MA as shown on Assessor's Map 301 as Parcel 051. It is in the Residence B Zoning District.

Members assigned tonight: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch. Herbert Bodensiek leaves.

Steve Cook is representing the applicants who are also with him tonight. He gives summary of relief being requested. It is in a flood zone, near a marsh and in the Old King's Highway. New house will meet all zoning requirements except that it is on an undersized lot. They meet FAR, lot coverage and height requirements. They have approval from ConComm and OKH.

Craig Larson asks if there is anyone her from the public who would like to speak either in favor or in opposition. No one speaks.

Alex Rodolakis clarifies that the height of the structure will not exceed 24 feet.

Steve Cook is asked if he seen the staff report and is in agreement with the conditions. He is.

Brian Florence makes findings:

Richard and Catherine Ventura have petitioned for a Special Permit pursuant to §240-91(H) – Demolition and rebuilding on nonconforming lots. The petitioners are proposing to demolish an existing one-story single-family cottage on a lot containing less than 10,000 square feet and construct a new, larger, two-story single-family dwelling. The new dwelling will conform with current setback requirements. The property is located at 64 Commerce Road, Barnstable, MA as shown on Assessor's Map 301 as Parcel 051. It is in the Residence B Zoning District.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot containing less than 10,000 square feet of contiguous upland by Special Permit.
- 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 dwelling is proposed in compliance with all setback requirements of the RB District.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage, inclusive of covered porches and decks, is 17.7%.
- The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is 26.5%.
- The building height shall not exceed 30 feet to the highest plate and the proposed is 1.5 stories
- The proposed new dwelling will not be substantially more detrimental to the neighborhood than the existing dwelling

Vote:

All in favor

Motion is made by Brian Florence to grant the relief being sought with the following conditions:

Conditions

1. Special Permit No. 2014-017 is granted to Richard and Catherine Ventura for the demolition of an existing dwelling and rebuilding of a 2,434 square foot dwelling at 64 Commerce Road, Barnstable.
2. The dwelling shall be constructed in substantial conformance with the plan entitled "Certified Plot Plan – 64 Commerce Road" dated January 27, 2014, drawn and stamped by Shane Brenner of Baxter Nye Engineering & Surveying; and the elevations dated 1/16/2014 and 1/23/2014, all entitled "Ventura Residence", drawn by Cotuit Bay Design, LLC, four sheets.
3. The total lot coverage shall not exceed 18% and the floor-area ratio shall not exceed 27%. Height of the proposed structure shall not exceed 24 feet
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. Prior to issuance of a certificate of occupancy, a certified as-built plan prepared by an independent party shall be submitted to the Building Commissioner to confirm that the lot coverage and floor area ratio of the dwelling conforms to the ordinance and the conditions of this decision.
6. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
7. 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.

Seconded by: George Zevitas

Vote:

All in favor

GRANTED WITH CONDITIONS

7:01 PM Appeal No. 2014-018

Pacheco/Lucien

Wayne J. Pacheco and Nancy J. Lucien have petitioned for a Special Permit pursuant to §240-94 – Expansion of a preexisting nonconforming use. The petitioners seek expansion of a preexisting nonconforming use as a lodging house to allow at least seven, up to eight lodgers. The premises have been used as a lodging house for six lodgers since 1985. The property is located at 791 Pitcher's Way, Hyannis, MA as shown on Assessor's Map 271 as Parcel 159. It is located in the Residence C-1 Zoning District.

Members assigned tonight: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch

Attorney Rebecca Moore is representing the applicant. With her tonight is Edmond Flynn who is the manager and resides there. Attorney Moore states that this property is used as a lodging house and has since 1985. She states that there is no history of noise or complaints and had previously submitted two letters of support. She states that the residents are adults and long term responsible tenants. Also, Site Plan Review has been approved which entails plenty of parking.

George Zevitas notes that he believes there was a complaint about tenants in the basement. Craig Larson notes that there is a cease and desist in the file and asks Attorney Moore to address this and the claim of a nonconforming use. Attorney Moore states that the enforcement order was issued in February ordering egress windows to be installed in the lower level which they will comply with

Craig Larson asks Attorney Moore to address the nonconforming issues and the fact that it is not owner/occupied. Attorney Moore states that it has been used for a lodging house continuously without a special permit. Craig Larson states that in 1987 the

ordinance changed and made this nonconforming. He asks Attorney Moore to prove that they have a nonconforming use because of omission of owner/occupied status.

They discuss.

Attorney Moore asks for a continuance.

Motion is made by Craig Larson to continue this to May 14, 2014 at 7:00 PM.

CONTINUED TO MAY 14, 2014 AT 7:00 PM

7:04 PM Comprehensive Permit No. 2000-085

Settler's Landing I

Jacques N. Morin, Trustee of the Settler's Landing Realty Trust has requested a modification of Comprehensive Permit No. 2000-085 - Settler's Landing I. The permit authorizes the creation of a 20 lot subdivision for 20 single-family dwellings, five of which are to be dedicated in perpetuity as affordable units marketed to qualified low- and moderate income households. The Applicant is seeking modification of the Comprehensive Permit to allow for additional market-rate housing styles and an extension of time for completion of the subdivision.

The subject properties are located at 3, 5, 7, 17, 31, 49, 59, 71, 75, 79, 81 & 0 Settlers Lane and 310 Castlewood Circle, Hyannis, MA, as shown on Assessor's Map 273 as Parcels 122-001 to -011, -032, and 032-001.

Members assigned tonight: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch

Representative: Jaques Morin. Mr. Morin gives a summary of relief being requested which is a change of house style design and for an extension of time limit for completion of the development.

Jacques Morin shows a copy of the designs and states that the Housing Committee did support the 5 designs. (Exhibit A)

The two year extension is because it took awhile for the development as they were in the process of selling Schooner's Village also.

Brian Florence asks Elizabeth Jenkins if the permit extension act applies to 40B's. She indicates that it does not apply to 40B's.

Craig Larson states that there is a letter of support from the Housing Committee in the file.

They discuss bifurcating his request; one for the house designs and another for the time extension and having the applicant agreeable to extending the portion of this request involving the time extension. This, the board has decided, is in order to see what the outcome of the Housing Committee meeting will be in regards to this on May 20th.

Motion is made by Brian Florence that the request for the change of house styles is insubstantial and therefore approved and to continue the time extension portion. Seconded by Craig Larson

Vote:

AYE: Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch

NAY: None

HOME STYLES DETERMINED INSUBSTANTIAL CHANGE

*Motion is made by Brian Florence to continue the time extension portion of this request to May 28, 2014 at 7:00 PM
Seconded by Craig Larson.*

Vote:

AYE: *Craig Larson, Brian Florence, Alex Rodolakis, George Zevitas, David Hirsch*

NAY: *None*

TIME EXTENSION REQUEST PORTION CONTINUED TO MAY 28, 2014 AT 7:00 PM

George Zevitas leaves.

7:03 PM Appeal No. 2014-019

The Cummaquid Golf Club of Yarmouth & Barnstable, Inc.

The Cummaquid Golf Club of Yarmouth and Barnstable, Inc has petitioned for a Special Permit pursuant to §240-94 Expansion of a preexisting nonconforming use and for modification of Special Permit No. 1972-16. The Petitioner seeks to tear down the existing 11,238 square foot golf course clubhouse and rebuild a new 15,905 square foot clubhouse. The property is located at 35 Marstons Lane, Cummaquid, MA as shown on Assessor's Map 350 as Parcel 001. It is in the Residence F-1 and Residence F-2 Zoning Districts.

Members assigned: *Craig Larson, Alex Rodolakis, Brian Florence, David Hirsch*

Attorney John Kenney is here representing the applicants. Also with him are Steve Cook and Matthew Eddy. Attorney Kenney gives summary of relief being requested and the history of the golf club. He states that with this proposal, there will be no change in membership or change in ownership. A full set of plans were submitted to the Cape Cod Commission who made a jurisdictional determination that it does not trigger the Development of Regional Impact automatic referral to the Commission. It also has approval from Old King's Highway approved the demolition of the existing structure back in 2012 which has been extended to the end of 2014 and also issued a Certificate of Appropriateness. They also have approval from Site Plan Review and approval from Board of Health for the septic system.

Matt Eddy gives a summary of the site plan conditions and shows an aerial picture pointing out the roads and golf course. He shows the cart storage barn, etc. He states that the overall course is 110 acres and located in the RF-2 and AP overlay districts. He shows the entrance and parking areas. The existing building will be razed. Landscaping has been enhanced and approved by OKH. Circulation has been improved with a new loading dock configuration and configuration for emergency vehicles. .

Steve Cook shows the interior enhancements. He then goes over the elevations.

Attorney Kenney continues with his reasoning in accordance with the zoning ordinances and re-summarizes the relief being sought. He states that the applicant is not looking to go into the event planning business and are only a club house serving the members. He states that the only times you will see an event is for charity to benefit Cape Cod Hospital. All functions are coordinated so that they will not overwhelm staff or parking. He talks about his memo he submitted which the members have copies of. They are negotiating with the Department of Transportation and the railroad for a 99 year lease and are trying to acquire the title to the property and fee interest. Attorney Kenney states that a neighbor, Mr. Barkus, who is also here tonight, is concerned about the visual impact on his property. He states that the landscape designer has spoken with Mr. Barkus and have come to an agreement, does not currently have a copy of that agreement, and asks the board not to make it part of the conditions.

Craig Larson asks if he would agree to it being administratively approved. Attorney Kenney states that it would be agreeable in reference to the Barkus property but suggests the board waits to hear from the Barkus' who are here to speak. .

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

Joe Berlandi, a club member and chairman of the Cummaquid Heights Association of 33 Midpine Road is here in support the proposal before the board. This applicant has addressed every concern, is transparent, has met with his committee and is in support.

Stan and Jenny Barkus are concerned about equipment on the second floor and the noise from it. They can see the ridge line over their fence and they have agreed to put in some arborvitaes and agreed to put in a total of 10, 4 large and 6 smaller.

Craig Larson notes that the staff report has suggestions (#4) about plans which doesn't include the arborvitaes but can allow for administratively approval and if they don't conform they can come back here. Mr. Barkus notes that he doesn't believe that the applicant will not follow through and that this design is better than their last design. Mrs. Barkus asks if construction could not start before 7:00 AM. Steve Cook clarifies that they will start in September and that the bulk of construction will be during the winter.

Craig clarifies with the Barkus' that they are happy with the design, etc.

Alex Rodolakis makes findings:

Copy of Public Notice

The Cummaquid Golf Club of Yarmouth and Barnstable, Inc has petitioned for a Special Permit pursuant to §240-94 Expansion of a preexisting nonconforming use and for modification of Special Permit No. 1972-16. The Petitioner seeks to tear down the existing 11,238 square foot golf course clubhouse and rebuild a new 15,905 square foot clubhouse. The property is located at 35 Marstons Lane, Cummaquid, MA as shown on Assessor's Map 350 as Parcel 001. It is in the Residence F-1 and Residence F-2 Zoning Districts

Required Special Permit Findings

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
Section 240-94(B) allows for expansion of a lawfully established preexisting nonconforming use with a Special Permit from the Board.
- **The Site Plan Review Committee reviewed the proposal and issued a letter dated April 4, 2014 approving the project subject to conditions and issuance of a Special Permit by the Board.**
- **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 expansion and intensification will not be more detrimental to the neighborhood.**
- Any proposed expansion of the use shall conform to the established setbacks for the zoning district in which it is located, or such greater setbacks as the Zoning Board of Appeals may required due to the nature of the use and its impact on the neighborhood and surrounding properties:
The proposed building is in compliance with all setback requirements of the RF-2 District. The clubhouse is proposed to be located 277 feet from Marstons Lane.
- **The proposed use and expansion is on the same lot as occupied by the nonconforming use (the clubhouse) on the date it became nonconforming.**
- **The proposed new use is not expanded beyond the zoning district in existence on the date it became nonconforming**

Vote:

All in favor

Motion is made by Alex Rodolakis to grant the relief being sought with the following conditions:

Suggested Conditions

Should the Board choose to grant Special Permit Application No. 2014-019, it may wish to consider the following conditions:

1. Special Permit No. 2014-019 is granted to Cummaquid Golf Club of Yarmouth and Barnstable for expansion of the use of the property for a private golf course and members' clubhouse and customary accessory uses. This permit shall modify Special Permit No. 1972-16.

2. This permit shall authorize the demolition of the existing 11,238 sq.ft golf course clubhouse and reconstruction of a new 15,905 sq.ft clubhouse.
3. The new clubhouse and associated site improvements shall be completed in substantial conformance with the plans entitled "Cummaquid Golf Club – Proposed Club House", dated February 24, 2014, drawn and stamped by Baxter Nye Engineering and Surveying and elevations entitled "New Clubhouse for Cummaquid Golf Club" dated March 21, 2014, drawn by Cotuit Bay Design, LLC.
4. Landscaping shall be installed in substantial conformance with the plans entitled "Landscape Site Plan – Golf Clubhouse Area – Prepared for Cummaquid Golf Club", dated February 19, 2014, drawn by Barnstable Landscape Design. Landscape materials along Marston Lane and within parking areas shall be maintained in healthy condition and the Applicant shall replace any dead or dying plant materials with healthy stock. **(to be administratively approved)**
5. All outdoor lighting shall consist of full-cutoff fixtures and light shall be directed downward so as to not glare or shine onto adjacent properties. A photometric plan showing light levels zero at the property line shall be submitted for review and approval by the Growth Management Department prior to issuance of a building permit.
6. A fully executed long-term lease with Massachusetts Department of Transportation authorizing the improvements shown on the above-stated plans shall be recorded and a copy submitted to the Zoning Board of Appeals and Building Division offices prior to the issuance of any building permits for the property.
7. Vegetation shall be cleared as necessary so that adequate sight distances at the entrance to the site on Marstons Lane are maintained.
8. On-street parking on Marstons Lane is prohibited.
9. Use of facility shall be compliant with noise ordinance.
10. All work shall be completed in accordance with the approvals and conditions of the Site Plan Review Committee, Board of Health, and Barnstable Committee of the Old Kings Highway Regional Historic District Commission.
11. 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.

Seconded by Brian Florence

Vote:

All in favor.

GRANTED WITH CONDITIONS

Motion is made by Craig Larson and seconded by Brian Florence to adjourn.

Vote:

All in favor.

Exhibits

7:03 PM Appeal No. 2014-014 - Connor

Exhibit A = Copy of pictures submitted by Attorney David Lawler

7:04 PM Comprehensive Permit No. 2000-085 - Settler's Landing I

Exhibit A = 11X17 House design plans dated 03-28-12 containing 9 sheets