



Town of Barnstable

Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

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, January 14, 2015

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

Craig Larson - Chair	Present
Brian Florence – Vice Chair	Absent
Alex Rodolakis – Clerk	Present
George Zevitas	Present
David Hirsch	Present
Herbert Bodensiek	Present
Robin Young	Present
Matthew Levesque	Present

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

As a quorum has been met, Craig Larson opens the hearing at 7:00 PM.

Call to Order

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

Craig Larson reads the following:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 an in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known. **No one responds.**

Approval of Minutes

Minutes from November 12, 2014.

Motion is made by Craig Larson and seconded by Alex Rodolakis to approve the minutes as submitted. Vote:

All in favor

Craig Larson reads the following into the record:

New Business

7:00 PM Appeal No. 2015-001

Gevorgyan

Garik Gevorgyan has applied for a variance from the one-acre minimum lot area requirement in the Residence B Zoning District (§240-11) to divide one lot into two, buildable lots for single-family residential use. The proposed lots would consist of 13,943 square feet and 18,076 square feet of upland. The Applicant also seeks relief from maximum lot shape factor requirements (§240-

8D) for one of the proposed lots. The Applicant is seeking to demolish all existing structures on the property and redevelop the lot with two single-family dwellings. The property is located at 36 Old Colony Road, Hyannis, MA as shown on Assessor's Map 306 as Parcel 117. It is zoned Residence B.

Members assigned: Alex Rodolakis, George Zevitas, Craig Larson, David Hirsch, Robin Young

Representative: Attorney David Lawler. Also with him is Matt Eddy – Managing Partner from Baxter Nye Engineering. Attorney Lawler gives history of current owner's purchase and states that there had been a lapse in the continuation of the nonconforming use. He also states that his client had appeared before this board previously with a proposal for two multi-unit buildings which was denied. Currently, what they are seeking is a variance. He hands in a screen shot from Google Maps (EXHIBIT A). The applicant is requesting a variance in order to divide the lot for the development of two single-family residences. Attorney Lawler states that he has been in contact with Attorney Ron Jansson who is representing several of the abutters and have agreed to a declaration of protective covenants. He summarizes relief by pointing out the proposed structures on the parcel(s). He states that the lot on the left will house a ranch-style home and a 2 story Cape Cod style house will be constructed on the parcel on the right. Under the restrictive covenant the ranch style home would be limited to 2200 square feet. He states that the application mentions that the square footage includes porches and decks which it should not. He states that the application mentions decks and porches in the 2200 square feet which is a typo and should only be for living space and garage which was part of the restrictive covenant agreement. He explains how the shape and placement of the existing house makes this unique. They had gone to ConComm on the previous application but have not on this proposal as of yet because of finances. He gives details on the restrictive covenants which he hands to the board members (EXHIBIT B).

Craig Larson clarifies with Matt Eddy that they are working off a plan dated 09-03-14. Matt Eddy states that the revision date should be January 5, 2015. Elizabeth Jenkins notes that the conditions as stated in the staff report do not reflect that revised date. Mr. Eddy states that they have met with Art Traczyk and Tom Perry to discuss this re-submission and process and were in agreement that they should come to the ZBA first before going to ConComm or the Planning Board. Craig clarifies that these structures will be on town sewer and would want it noted in the conditions. Mr. Larson also asks about the plans and states that the grant of this relief will be based on the footprint

Craig Larson asks Attorney Lawler if he wants the covenants to be part of the conditions. Attorney Lawler states that he doesn't feel that it would be necessary to be part of the conditions but will allow if needed.

Craig Larson notes that the board has elevation on the Cape style house but not much on the Ranch-style house and if they do approve it they will grant based on the submitted footprint. Attorney Lawler states that the elevations on the Ranch-style house are included in the covenants.

George Zevitas asks Attorney Lawler for clarification on the thirty year time limit on the covenants.

Craig Larson asks for public comment.

Attorney Ron Jansson, who is representing three of the abutters who are directly impacted by this project: the DiPalma, at 194 Gosnold Street, the Meece's of 186 Gosnold Street and Dan Meece of 180 Gosnold Street. He states that they had appeared before this board in June to oppose the previous proposal but are now here in support as they have attended meetings in order to come to an agreement. He explains the restrictive covenants which they have agreed to with the applicant and the notes that if the board were to grant the relief being sought that they will do in accordance with the plans and conditions submitted. He states that, with the conditions imposed, will not be more detrimental to the neighborhood but a plus.

Alex Rodolakis asks if a single, one-family unit would be a detriment.

Attorney Jansson states that they would question the ability of the owner to develop the lot as a single lot because of the demolition costs and added expense if hazardous materials to be removed were present.

Craig Larson asks if they do include the covenants in to the decision would it last longer than 30 years. Elizabeth Jenkins believes that there is case law indicating that the 30 year limitation does not apply to ZBA decisions but to clarify would have to get an opinion of the town attorney. Attorney Lawler states that Attorney Jansson will be recording the covenants providing that the conditions precedent is met. They discuss when the covenants will be recorded.

Peter Crossen speaks and states that he was here at the last hearing and the last plan was unacceptable. He has seen break-ins at the premises but likes this new plan and sees it as acceptable.

Gerry DiPalma at 194 Gosnold Street speaks and comments that the Meece's and himself have a way to communicate with others in the area and have received no negative feedback on this proposal.

Craig Larson lists the letters that were received by the board: one from Kathy Meece in favor, one from Jerry and Lisa DiPalma in favor, and another from Dan Meece in favor (EXHIBIT C).

Craig Larson asks Attorney Lawler if he has seen the conditions and if he is okay with them. Attorney Lawler is in agreement with them. Craig Larson asks him if all this will be done within one year and will include the ANR. Matt Eddy explains. Craig Larson clarifies that they will be hooking up to town sewer.

Elizabeth Jenkins wants clarification from Attorney Lawler because the restrictive covenants and the plan do not match in regards to footprint. They discuss how the conditions are per plans.

Alex would like to see the applicant come back with a more definitive plan showing elevations...

Craig Larson asks about flood plain. Matt Eddy explains. Alex would like to see some of the restrictive covenants and would like a restriction on sizes of the houses regardless of where they are in the setback, also, more detail, how high the house will be when built. Attorney Lawler asks to consult with his client.

Attorney Lawler asks for a continuance to another date certain and states that they will have more definitive plans on January 28th. Attorney Ron Jansson asks for clarification on the reason for the continuance. Craig Larson explains that it will in order to receive elevation and floor plans reflective in the covenants.

Motion is made by Craig Larson and seconded by Alex Rodolakis to continue this to January 28 at 7:00 PM

Vote:

All in favor

CONTINUED TO JANUARY 28, 2015 AT 7:00 PM

Craig Larson reads the following into the record:

7:01 PM Appeal No. 2015-002

Beaulieu

Donald Beaulieu or Nominee has petitioned for a Special Permit pursuant to §240-25(C)(1), Conditional Uses in the HB District. The Petitioner seeks Conditional Use Special Permits for two existing businesses: a service and sales business and a retail and wholesale store/salesroom. The property is located at 37 Hinckley Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 018. It is in the Business & Highway Business Zoning Districts and the Groundwater Protection Overlay District.

Members assigned: Alex Rodolakis, George Zevitas, David Hirsch, Robin Young, Craig Larson

Representative: Attorney David Lawler.

Attorney Lawler states that his client wants to purchase the property and that what currently exists on the lot is a tile showroom and store house predating the present designation of zoning. He states that the proposal for the use of the property is for Heritage Turbine dealing with sales of fuel injector parts and comply with hazardous waste materials restrictions. He has also met with Tom Perry – Building Commissioner in regards to Site Plan Review. He hands in a picture of a plane (EXHIBIT A). He notes that Attorney Phil Boudreau, who is also present, is representing the seller. David Hirsch asks what materials are there presently. Attorney Lawler states that it is predominately materials used in tiling. Elizabeth Jenkins states that she did check with the Board of Health to confirm that they do inspections and has been passed for less than regulated quantities of waste. Robin Young asks the status of septic hook-up. Attorney Boudreau states that there is a brand new septic system installed just a month ago. Craig Larson asks how many employees. Attorney Lawler states that currently there are four employees and clarifies that the parking is adequate. Alex Rodolakis asks about signage.

Craig Larson comments that it is in Groundwater Protection Overlay District and if there are any other changes they he would like to see the company tied into the sewer at that time.

Alex Rodolakis does findings.

Donald Beaulieu or Nominee has petitioned for a Special Permit pursuant to §240-25(C)(1), Conditional Uses in the HB District. The Petitioner seeks Conditional Use Special Permits for two existing businesses: a service and sales business and a retail and wholesale store/salesroom. The property is located at 37 Hinckley Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 018. It is in the Business & Highway Business Zoning Districts and the Groundwater Protection Overlay District.

Special Permit Findings

1. In Appeal No. 2015-002, Donald Beaulieu, or nominee has requested a Conditional Use Special Permit to authorize two exiting business, a service and sales business and retail and wholesale business, operating within an existing building at 37 Hinckley Road, Hyannis.
2. Section 240-25(C)(1) of the Zoning Ordinance allows any use permitted in the B District with a Conditional Use Special Permit. Retail and wholesale stores and salesrooms, retail trade services and shops, and any other business uses of a similar nature are permitted in the HB District with a special permit from this Board.
3. The Building Commissioner reviewed the existing site and uses and issued a Site Plan approval letter dated January 7, 2015.
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 of the existing building is consistent with the Local Comprehensive Plan, which designates this area as a Regional Commercial Center.

Seconded by Craig Larson

Vote:

All in favor

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

Conditions

1. Special Permit No. 2015-002 is granted to Donald Beaulieu, or Nominee to allow two businesses, a service and sales business and a retail and wholesale store and salesroom in the existing 13,936 building at 37 Hinckley Road, Hyannis, MA.
2. As this property is located in a groundwater recharge area, the generation, treatment, storage or disposal of hazardous materials or waste is prohibited.
3. This 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 for this special permit to be in effect. The rights authorized by this special permit must be exercised within two years, unless extended by the Board.

Vote:

AYE: Alex Rodolakis, George Zevitas, David Hirsch, Robin Young, Craig Larson

NAY: None

GRANTED WITH CONDITIONS

Other Business

Next Regularly Scheduled Hearing January 28, February 11, February 25

Adjourn

Motion is made by Craig Larson and seconded by Alex Rodolakis to adjourn.

Vote:

All in favor

EXHIBITS

7:00 PM Appeal No. 2015-001

Gevorgyan

Exhibit A = Google map of property – three pages.

Exhibit B = Declaration of Restrictive Covenants - four pages.

Exhibit C = Email from Daniel Meece dated January 14, 2015 – one page

7:01 PM Appeal No. 2015-002

Beaulieu

Exhibit A = Page entitled “Heritage Turbines – PT6A Duplex Fuel Nozzles” with picture of plane.

Approved