

**Zoning Board of Appeals
MINUTES
Wednesday, July 9, 2025
7:00 PM**

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, July 9, 2025, at the time indicated:

Call to Order

Chair Jake Dewey calls the meeting to order at 7:05 PM with an introduction of Board Members:

Member	Present	Absent
Dewey, Jacob – Chair	X	
Bodensiek, Herbert – Vice Chair	X	
Pinard, Paul – Clerk	X	
Alves, Manny	X	
Hansen, Mark	X	
Hurwitz, Larry	X	
Pittenger, Natalie	X	
Tavano, Rodney		X
Webb, Aaron	X	

Also present is Anna Brigham, Principal Planner, and Genna Ziino, Administrative Assistant.

Notice of Recording

This meeting of the Zoning Board of Appeals is being recorded and broadcast on the Town of Barnstable's Government Access Channel. In accordance with MGL Chapter 30A §20, I must inquire whether anyone is recording this meeting and if so, to please make their presence known.

Minutes

May 14, 2025 – Chair Dewey moves to approve the minutes. Larry Hurwitz seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Manny Alves, Mark Hansen, Larry Hurwitz, Natalie Pittenger, Aaron Webb

Nay: None

Old Business

7:00 PM

Appeal No. 2025-013

Wilkens Lane Properties, LLC

Wilkens Lane Properties, LLC has applied for a Special Permit pursuant to Section 240-125 C. (1)-(3) Special Permit Provisions and 240-38.1 F. Mixed-Use Subzone of Medical Services Overlay District. The Applicant seeks to construct 5 residential apartment buildings containing a total of 320 units, which will be served by a combination of surface parking and detached garages. The proposal also includes one single-story clubhouse/leasing building and residential amenities such as a pool, courtyards, outdoor seating areas, grills, and a dog run area. The subject property is located at 0 Wilkens Lane, Hyannis, MA as shown on Assessor's Map 296 as Parcel 039-001. It is located in the Industrial (IND), Residence G (RG), and Business (B) Zoning Districts, and Medical Services Overlay (MSO), Mixed Use Subzone of the (MSO), and GP & AP Overlay Districts. Continued from May 28, 2025 and June 11, 2025. Members assigned: Jacob Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, and Natalie Pittenger.

Attorney Mike Ford is representing the applicant and is joined by John Twohig of New England Development (NED). They would like to begin by responding to comments and concerns they heard at the May 28 meeting. They filed a memo of their response to the comments but would like to expand on that now. Mr. Twohig introduces the rest of the team: Paul Cincotta and Mark Jackson of NED; David Hall, Steve Dazzo, and Nate Cheal of Hanover Company; Jeff Dirk of Vanasse & Associates, and Attorney Tim Sullivan. Mr. Twohig reviews a brief history of the parcel and of Hanover 1. They went through a rezoning process with Town Council to make this possible. They are proposing 320 units, with 42 of them affordable on a 17-acre parcel. This satisfies the zoning requirements for a special permit by being 1,000 feet off Kiddy Hill Road. The project meets zoning requirements and affordable housing requirements.

In response to comments from the last meeting:

- **People were concerned that this project is not really affordable.** He explains that this serves a broad range of workforce housing, and they have evidence of that from Hanover 1 (90% leased, with 2/3 of residents from the cape). Professions including healthcare, first responders, teachers/principals, trades, hospitality/retail, professional services. 70% of people who live there are 100% or below AMI. Phase 1 has 60+ people who work in healthcare; 45 people who work in the municipality and schools; with 60+ people being served by the affordable residences. They expect the proposed building to be similar to this. There's absolutely demand and need.
- **Regarding utilities,** anecdotally it's between \$100-160 for electric and \$49 for water and sewer. Affordable units are computed differently.
- **Is there sufficient water/sewer capacity?** Per an email dated 7/1/25 from the Town Engineer, "DPW is satisfied that there is adequate sewer collection system capacity to support the development." Regarding water, correspondence from Sean Anderson, Superintendent of the Barnstable Fire Water District, was submitted to the Board confirming that the Barnstable Fire Water District reviewed the proposed usage and confirmed sufficient water is available to support the project.
- **Can the project have 2 water connections fed off 12-inch mains on different streets?** Yes, and they worked with Chief Beal and Sean Anderson on a proposed condition to accomplish this.
- **Updated fire hydrant plan?** This will be implemented and provided as conditioned in Site Plan Review approval.
- **What is solar ready and why don't they put solar in now?** They're required under the code to size appropriately including electrical and utility rooms and allow pathways to allow installation. Solar technology and the size of panels are changing so they want to wait for solar. In the interim as part of the Cape Cod Commission's decision, 50% of their power comes from renewable sources.
- **Will there be fire alarms and sprinklers?** Yes, they will meet all requirements.
- **Where is the emergency access and can there be one driveway?** Emergency access was approved by Fire Chief Beal during SPR. A singular driveway was reviewed with DPW during SPR, where it was determined that the proposed location and design of the driveway is acceptable. Vannase Associates, transportation engineers, who provided a memo concluding the two driveways are appropriate to function safely.
- **Parking?** 478 spaces on site, 46 of which are garage spaces. Spaces can accommodate large trucks for trade vehicles, similar to Phase 1. The garages also provide storage capacity.
- **Chargers for ebikes?** Yes.
- **Bus service?** CCC decision requested coordinating a bus stop on Wilkens Lane should the demand arise. They are also within walking distance of two bus stops and multiple shopping centers.
- **Secondary access with Cape Cod Aggregates?** The project is open to discussion but can't commit to secondary access through their property because they do not control that property.
- **How will the project handle stormwater and nitrogen?** No nitrogen fertilizers will be used, and runoff will be managed and treated onsite.
- **Have you prepared a fiscal study?** They engaged Mark Fougere to conduct a fiscal study and asked them to be conservative. The study demonstrates positive impacts of \$851,259 gross new taxes in an annual positive net fiscal impact after accounting for impacts to police, fire, schools, etc. and one-time permit fees of \$630,000.

Attorney Ford discusses the special permit criteria: Under 240-125 C (1)-(3), a special permit shall be granted if the following criteria area satisfied:

- a. **The application falls within a category specifically excepted by Chapter 240.** He shares a site plan showing that the site is 1,000 feet from Kidds Hill Road, and walks through the dimensional table and reviews that they are fully in compliance with zoning. Section 240-38.1F allows multi-family use.
- b. **An evaluation of all the evidence presented at the public hearing shows that the project fulfills the spirit and intent of the chapter, without substantial detriment to the public good in the neighborhood.** He reviews the benefits associated with the project: gross new tax positive fiscal impact; year-round housing for residents; 42 units affordable; redevelopment of former sand pit so improved ecological condition; improvement to pedestrian infrastructure; high efficiency electric heat pumps to reduce regional reliance on fossil fuels; walkable to amenities; no nitrogen-based fertilizers; no short-term rentals; deed restrictions; green energy required.
- c. **If the project has undergone Site Plan Review and been found approvable in accordance with Article IX of the zoning ordinance.** SPR approval was issued by the Building Commissioner as of April 17, 2025. The conditions of sewer and water have been addressed. They will return to SPR if this is approved in order to get those conditions checked off officially. At the request of DPW, they performed an analysis of the sewer collection system to ensure that there is capacity. They submitted the memo to DPW, who asked that they update DPW's model they use when determining sewer capacity in various areas (hadn't been updated since 2016). They worked with DPW to produce a workable model for them that's been delivered to DPW. That was all part of the sewer evaluation that they'd required in SPR.

Back to the Board for questions. Natalie Pittenger believes the annual rental population is 2.6 people per unit so doesn't think 1.49 parking spaces per unit will be enough. Attorney Ford says parking meets the requirements of the ordinance. Mr. Twohig adds that 2.6 people per unit is not correct—there are many single-bedroom units. Hanover 1 consistently has plenty of open spaces available and the ratio was 1.51 there. Today in MA the industry average is around 1.27 parking spaces per unit for buildings of this type, so 1.49 is considered heavy. There is no desire for more pervious surface in MA. Chair Dewey asks if parking is shared between Hanover 1 and 2. Mr. Twohig answers that it is not shared. Mark Hansen asks if there is a backup system in place should there be heat pump failure. Attorney Ford says there are generators onsite for the sewer, but not for power. They meet fire code for the fire system, and the life safety systems are on a generator but the building itself is not. Chair Dewey believes the state guidance is pushing for generator power. Steve Dazzo says it's not part of the current code. Manny Alves asks what percentage of units of Hanover 1 were affordable. Attorney Ford says it's the same as this proposal, 13%.

Chair Dewey asks what wage they're serving. Mr. Twohig says 100% AMI as a couple is about \$109,000. They can't speak to particular wages of their tenants, but they provided the professions of their population to give an idea. 65% and 80% run as a lottery, and they had 150 people apply for those units. 70% of units fall within starting at 65 up to 110 AMI. Chair Dewey wants to see workforce wages. School and municipal wages are public record—could two people working for the town or the school system afford to live in these units? Mr. Twohig confirms absolutely they could. Aaron Webb asks what types of units the affordables are. Mr. Twohig says they aren't allowed to do any differentiation so it's equal quality and equal representation of each bedroom type as with the market rate units. Chair Dewey asks what percentage of sewer capacity is being consumed by this. Mark Jackson is familiar with DPW and VHB, who did the study, found 3% of the sewer flow was coming from their site to the pump station. It doesn't put them even close to capacity on that line. Larry Hurwitz says if they're not purchasing solar equipment, how is a structural engineer doing calculations to know if the building can handle solar. Steve Dazzo says it's prescriptive in the building code that the solar system be designed to be considered solar ready, so those designs are created.

Chair Dewey opens for public comment. The Chairman says the Board received a letter in support from Lorri Finton of Barnstable Housing Authority. The Board also received letters from Barnstable Fire and Barnstable Water providing status updates.

John Lipman, former Deputy Director of the Cape Cod Commission, which has unanimously endorsed this project speaks in support. He reads letters in support from Tim Mahoney, retired Executive President of Stop & Shop; Ben Feller from Stop & Shop; Bob Eckel, Executive Director of the Cape Cod Tech Foundation; Lorri Finton of Barnstable Housing Authority; Liz Friedman, former Principal of Barnstable High School; John Wheatley, owner and President of Ace Hardware on Main Street Hyannis; and Rio Sacchetti of Pennrose LLC.

Councilor Gordon Starr speaks with concerns and asks the following: are the 3 options being left open for the 12-inch water main? At what point will solar be small enough? Are there opportunities for charging ebikes and scooters? Is there a plan for an emergency exit/entrance through BJs? Can there be more pedestrian and bike connections, like to BJs and to Hathaways Pond? Are the deed restrictions in perpetuity? Can we do 70% for local people for lotteries? Who can afford to live there? And he does not think the ecology of the land will be improved by this, and he does not like the look of the structures.

Councilor Betty Ludtke speaks with concerns that the project is not workforce housing. She would like CFAC to review the financials. She thinks solar needs to go in now.

Henry Ramage thinks the affordable piece needs to be bigger piece, and there should be better transportation.

John Carey of 56 Cook Circle speaks in support of the project. He is a builder and thinks the Board should start approving more projects like this. He thinks leadership is not representing the needs of the community and young people are being squeezed out as a result.

Jocelyn Marshal, Barnstable resident speaks in support. She thinks this will be workforce housing.

Michael Bachstein, VP of Operations at Cape Cod Healthcare, speaks in support and thinks this will be workforce housing.

Kat Stewart speaks in support and agrees this will be workforce housing. There are very few year-round rentals that come available.

Tony Shepley, resident and business owner, speaks in support. He also reads a letter from John Cox, the President of Cape Cod Community College in support of the project. Mr. Shepley thinks Hanover 1 has had no negative impacts.

Eric Schwaab, Hyannis resident, speaks in opposition. He doesn't think there is public benefit to putting these apartments in. He would prefer to see a 40B go in.

Rob Brennan, resident and Chief Legal Officer for HAC speaks in support. He reads a letter from HAC CEO Alisa Magnotta in support. He shares that HAC got 950 applications for 42 affordable units that went to lottery in January. Last month, HAC got 160 applications for 14 affordable units. There is a trickle-down public benefit to even market rate units, because they create naturally occurring affordable housing.

Adele Giovannello, part-time employee in Barnstable, speaks in support of the project. The average home price is 5x the median income of Americans. She thinks the Board can't hold a double standard for housing projects.

Jan Rapp, resident and teacher, speaks with concerns that the infrastructure cannot support the project.

Avery Revere, Barnstable Village resident, speaks with concerns. There have been 646 units in multi-family buildings built in the last 10 years in this precinct. She thinks this is a lot of units in a small area and needs more planning.

Cynthia Cole of Barnstable Village speaks with concerns about safety and community. She asks the Board to slow this down and get more affordable units. She requests an economic impact review conducted by the town.

Paige Whiteley Tivnan, Barnstable resident, speaks in support. She likes the community aspect and thinks commuting from off cape isn't sustainable.

Seth Etienne, Hyannis resident, reads a letter from Sharon Rex, a healthcare worker, in support. The lack of housing will affect hospital staffing.

Cindy Martin, Barnstable resident, speaks in support of the project and thinks it will be workforce housing.

Attorney Ford and Mr. Twohig respond to questions asked during public comment:

- Regarding Councilor Starr's concern about leaving the condition about leaving the watermain layout open, it is appropriate to leave it open because the applicant did that at the request of the fire and water dept.
- Regarding concerns about ebike/scooter batteries, most people charge them in their unit, no batteries are provided.
- Regarding deed restrictions, yes the deed restriction is permanent for all 42 units.
- Regarding the ability to have local preference, yes there is the ability, and they observe it.
- Regarding solar, this has been addressed, the applicant has a plan.
- Regarding Avery Revere saying this project is being plopped in, he reminds the Board that this was a long process of planning including amending zoning through the Planning Board and the Town Council, and later going through the Cape Cod Commission.
- Regarding a fiscal study, they provided that more than a month ago, and it addresses many questions.
- Regarding Councilor Starr's sidewalk gap comment along Wilkens, they are required to close that gap in the DRI decision.
- Regarding Councilor Starr's question about emergency access and connectivity, they did several involved plans with Fire Chief Beal, who then approved the plan.
- Regarding affordable and public benefits, they are spending \$25 million to build the affordable units and they don't get a return on those. Creating on cape 76 affordable units together, 100% financed themselves, is a huge public benefit.
- Regarding the comment that the Board could make a finding that this is not creating public good—actually the Board would need to find "substantial detriment to the public good or the neighborhood effected."

Herb Bodensiek asks about the 50% renewable energy requirement. Attorney Ford says the CCC decision requires them to have a green energy contract. Steve Dazzo says they'll sign an agreement with Cape Light Compact, so every tenant will be required as part of the lease. It's monitored by their leasing office. It's a condition in the DRI with the Commission, for which they'll need certificates of compliance. Chair Dewey wants to know who it falls on for enforcement. Attorney Ford says it falls on the applicant to report to the CCC—it will be part of their lease. The group discusses the logistics of enforcement. Mark Hansen asks if that contract stops if and when solar goes on. Attorney Ford says it's reviewed when solar goes on. Herb Bodensiek asks if this was a condition of Phase 1. Attorney Ford says no it wasn't, but he will get a copy of the CCC provision to staff so the Board can parrot the language.

The Board discusses concerns about solar and that it should be added now, or whether they should include a condition about it. They discuss that Hanover 1 is considered fully leased. They discuss the market rate rents: \$2,400-2,600 for a 1 BR; \$3,200-3,500 for

a 2 BR; and \$4,000 for a 3 BR. Chair Dewey wants to see data related to actual workforce wages for the town. He thinks more affordable units are needed. Mr. Twohig says they have to have market rate units to be able to finance the loss that comes from the affordables. They discuss infrastructure and whether it can handle the project. Mr. Twohig says they've had to mitigate everything and ensure there is appropriate infrastructure. The Chairman wants to know the status of the financial report he requested CFAC to review. They discuss the need for a completed sidewalk connecting the location to Star Market and BJs. Jeff Dirk, Traffic Engineer for Vanasse & Associates who did the traffic study, explains that the missing piece of the sidewalk is on private property, so they can't complete it. What they did instead was rebuild the intersection, rebuild the crosswalks, and create a sidewalk stub so when the Festival Mall goes in, that owner will be required to complete that piece of the sidewalk.

Attorney Ford reminds the Board that the test of the ordinance is, is the project substantially detrimental to the public good. Chair Dewey wants to make sure that they are delivering what the public is supporting. Attorney Ford asks for direction for where they're falling short under the ordinance. The Board discusses whether this is a detriment to the public good.

John Julius of Hyannis speaks in opposition with concern over water, sewer, and PFAS. He doesn't think the infrastructure can handle this project. He wants a building moratorium in town.

Bill Carey, Cummaquid resident, speaks with concern that we need good employment to have housing. He thinks it should be commercial use and that the Commission didn't listen to the public.

Manny Alves wants to consider that this Board's role at this point in this process is very constrained. These decisions by Town Council, the voting body, were made some time ago and ordinances were changed. Much of the public comment goes beyond what the Board's role is, and the Board needs to decide whether the prongs have been met. Chair Dewey thinks they also have to consider the spirit and intent—he thinks this second phase was slid in there. Mark Hansen says there was very little mention of the second phase in the original discussions with Town Council, so the Board is trying to consider intent. He says the public here wasn't opposed to it, just had some asks to address. Manny Alves asks if the applicant heard anything from the public that they want to address that can be remedied. Attorney Ford says they might consider a timeframe for putting on solar. They might be able to condition to work with Cape Cod Aggregates for accessibility/connectivity. Regarding the connection to BJs, they're working with the Water Department to try and get permission on the water main—maybe they could include a good faith effort to try and expand the easement to consider a walkway. They can come back with conditions for the Board to review. Mr. Twohig would like to provide the Board more information on solar, connectivity, and mitigation, and proposed conditions.

Aaron Webb moves to continue this to August 13, 2025. Mark Hansen seconds.

Vote:

Aye: Jacob Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Natalie Pittenger

Nay: None

The Chairman leaves public comment open. He requests the applicant send the fiscal report to CFAC.

Appeal No. 2025-013 Wilkens Lane Properties, LLC is continued to August 13, 2025.

The Board takes a brief recess and resumes open session at 10:51 PM.

New Business

7:01 PM

Appeal No. 2025-019

Barnstable Black Belt LLC

Barnstable Black Belt LLC has petitioned for a Variance pursuant to Section 240-52 C. Design and Screening Standards; 240-24.1.5 C. 3.(b) Standards for All Districts, Parking Standards, Location; and 240-24.1.5 E. (a-e) Surface Parking Lot Design Standards. The Applicant proposes to construct a new multifamily building containing 9 two-bedroom residential apartments on an undeveloped and underutilized lot with 10 parking spaces, associated landscaping, utilities, and related infrastructure. The Applicant is requesting relief for the proposed parking lot design and for certain landscaping requirements within the surface parking lot design standards. The subject property is located at 79 Center Street, Hyannis, MA as shown on Assessor's Map 327 as Parcel 065. It is located in the Downtown Main Street (DMS) Zoning District.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Mark Hansen, and Aaron Webb.

Attorney Patrick Nickerson is representing the applicant and is joined by Sam Iamelli from JC Engineering, Inc; Maria Dantes from Solvuplus Barnstable, Ben LaFrance from Hawk Design Inc., and Roberto Maya, Principal of Barnstable Black Belt LLC. He shares an image of the lot and explains that it's surrounded by public ways and beyond those are developed lots. He walks through existing conditions: undeveloped lot of 6,970 sq. ft. with frontage on Center Street, Dynaflo Drive, and Willow Ave. It's walkable to centers. The proposed redevelopment went through Site Plan Review and got approval on November 18, 2024. Planning Board approved 25-002 which allowed primary ground-story fenestration under the form-based code to go below 60% to 36.43% because of privacy concerns over the first floor.

Sam Iamelli walks through the site plan. The proposed 9-unit building will have first-level entrances facing Center St. and on the opposite side will have second level entrances facing Willow Ave. 10 parking spaces, 1 of which is handicapped, will be provided (9 spaces required). Parking is located on the Willow Ave. side because it's the least busy side. The footprint was designed to comply with all but one zoning requirement, which they received relief from the Planning Board for. They are tying into water and sewer on Center St. They will capture and discharge stormwater runoff through a series of subsurface infiltration systems. Maria Dantes walks through the elevations of the building. The goal is to reflect the feel and character of the neighborhood. She shares the specific materials to be used, which comply with HHDC guidelines. The design supports the intent of form-based code, contributing to a walkable streetscape. Attorney Nickerson says the unique topography is a 10-foot difference of grade facing Willow Ave vs. Center Street.

Ben LaFrance walks through landscape details. 5 shade trees and 70 shrubs proposed, mostly concentrated on the north side facing Dynaflo and the east side facing Center St. The shrubs are hardy Cape species, mostly native or cultivars. Shade trees break down massing of the building and provide shade. Subsurface infiltration systems for drainage limit what they can do in terms of landscaping. There is a small lawn and also a trash receptacle storage area at the southern end of the parking area.

Attorney Nickerson adds that this is located in the DMS where multi-family use is allowed as of right provided certain conditions are met. They meet unit amount (9) and parking amount (10). The only area they don't meet has been blessed by the Planning Board, fenestration, and they otherwise meet form-based code.

Attorney Nickerson walks through the requested relief:

1. Variance from 240-52C which provides that parking areas for 5 or more cars must provide enough room so cars don't have to back into a public way. There is really nowhere else to put the parking. He shares images showing many abutting businesses engage in the same parking style where cars must back onto Willow. Willow Ave is preferable to Center Street, which is heavier traffic.
2. 240-24.1.5 c 3 B prohibits motor vehicle parking in front of lot. There's no other way to situate the parking so it must be in the frontage of Willow Ave.
3. 240-24.1.5 E has specific landscaping details, requesting relief for A-E.
 - a. Proposing only 1 caliper tree.
 - b. Not proposing landscape buffer on Willow Ave, because it's not possible because it's a parking lot.
 - c. Landscape buffer from Dynaflo
 - d. Not proposing rear landscape buffer on Willow Ave
 - e. Buffer is not 50 linear feet and only includes 9 shrubs
 - f. No proposed landscape buffer between parking lot and building
 - g. No percentage of parking lot proposed to be landscaped, because they are including 10 parking spaces

Attorney Nickerson walks through the 3-prong test. The property has 3 frontages. Road layout affects the property, and the lot has unique topography of higher grade on Willow. The proposed building meets bulk requirements but could not move forward because it cannot achieve compliance for form-based code and the requirements at the same time. At least 5 abutting properties use rear parking lot in this same way.

Chair Dewey moves to continue this to July 23, 2025. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Mark Hansen

Nay: None

Appeal No. 2025-019 Barnstable Black Belt LLC is continued to July 23, 2025.

Correspondence

- Cape Cod Commission Agenda, 6/26/25 at 3:00 p.m.
- Cape Cod Country Club Hearing, 7/10/25 at 5:00 p.m.

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

July 23, 2025 (remote), August 13, 2025 (in person), August 27, 2025 (remote)

Adjournment

Chair Dewey moves to adjourn the meeting. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Mark Hansen, Aaron Webb, Natalie Pittenger, Larry Hurwitz, Manny Alves

Nay: None

Documents Used at this Meeting

- May 14, 2025 minutes
- Appeal No. 2025-013 Wilkens Lane Properties, LLC application materials
- Appeal No. 2025-019 Barnstable Black Belt LLC application materials

Respectfully submitted,
Genna Ziino, Administrative Assistant

Further detail may be obtained by viewing the video via the Barnstable Government Access Channel on demand at town.barnstable.ma.us