

**Zoning Board of Appeals
MINUTES
Wednesday, October 8, 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, October 8, 2025, at the time indicated:

Call to Order

Chair Dewey calls the meeting to order at 7:03 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	
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

None

Old Business

None

New Business

7:00 PM

Appeal No. 2025-024

Egan Capital LLC

Egan Capital LLC has petitioned for a Variance pursuant to Section 240-13 E. Bulk Regulations for the RC District and Section 240-26 F. Bulk Regulations for the HO District. The Petitioner seeks to separate off a triangular portion of 18,414 square feet at the rear of the property to utilize in connection with a neighboring affordable housing redevelopment project. The remaining property will total 39,805 square feet. The existing single-family dwelling and shed will remain on the portion of land with sole access from Richardson Road. The subject property is located at 40 Richardson Road, Centerville, MA as shown on Assessor's Map 210 as Parcel 134-003. It is located in the Residence C (RC) and the Highway Office (HO) Zoning Districts and the Resource Protection Overlay District (RPOD).

Chair Dewey assigns himself, Paul Pinard, Herb Bodensiek, Aaron Webb, and Natalie Pittenger.

Attorney Andrew Singer is representing the applicant. He asks if the Board is willing to also read Appeal No. 2025-025 into the record so he can discuss both at the same time, because he can't do one without the other. Chair Dewey says the variance must stand on its own.

Attorney Singer introduces Michael Egan, the applicant and the principal for both applications. Mr. Egan is a Barnstable resident and an experienced developer, with a track record of local involvement.

Attorney Singer says 40 Richardson Road has a single-family dwelling, with access that it shares with 48 Richardson Road. It is a uniquely shaped piece of land: it's narrow by Richardson Road, has a bottleneck in the middle, and then it flares out towards the rear. It is preexisting nonconforming due to lot size. They are looking to create a not-separately-buildable piece of land. The

remaining house lot would be 39,805 sq. ft., so still nonconforming and would have just the shed and the dwelling. The driveways would stay the same. He submits that the request satisfies the variance criteria:

1. It is a unique, trapezoidal shaped piece of land.
2. The house on the property was rebuilt not too long ago and is a large structure in good shape. Its condition weighs on the request for this variance because the state funding requirements for 40Bs include building consistency and lottery requirements. So the lottery would require that all houses look like the larger house on Richardson Road, or the existing house would have to be demolished and a new house built to match the 40B proposals. That is a substantial financial and practical hardship.
3. What they're seeking to do doesn't intensify density or size—it just squares off the development. This can be granted without harming the public good or being contrary to the ordinance. They are not creating any new building lots, and will not affect density or driveways. From Richardson Road, nothing would change.

Back to the Board for questions. Chair Dewey asks Attorney Singer to summarize the 3-prong test without including the 40B project. Attorney Singer explains:

1. Trapezoidal shape and the historical development of the property are part of its uniqueness.
2. Hardship is that the land will not be able to be dedicated to a more public purpose of providing affordable housing in the community. As it is, they can't utilize the land for that purpose.
3. There will be no harm to the public good because they are creating no new building lots, no new access, and are not changing anything physically about the existing home.

Manny Alves believes the hardship has to be on the petitioner, not the public good. Attorney Singer says Egan Capital is involved as principal of both properties, so it does affect Mr. Egan. The group discusses that this variance needs to be kept separate from the housing project. They believe Attorney Singer is conflating the two. Attorney Singer says their argument is that the hardship as the inability to dedicate that piece to what they believe is a public good for the adjacent land, and that raises a hardship.

Aaron Webb asks how 40 Richardson Road will affect the proposed structures. Attorney Singer explains that they considered including 40 Richardson Road in the comprehensive permit. They can legally do that and wouldn't need the variance. The state has a housing consistency requirement and lottery requirement that there can't be discrimination between the market rate units and the affordable units. In this case, the houses proposed for the 40B are smaller than the existing 40 Richardson home. So they would either have to change the building protocol for the new houses to be consistent with the existing dwelling (which economically doesn't work for a 40B) or demo and rebuild a home that was consistent with the proposed dwellings. Aaron Webb asks if they included 40 Richardson Road, would that driveway become an access point? Attorney Singer says theoretically, it could. Aaron Webb doesn't want to invite more traffic onto Richardson Road, so that raises an issue if they include it in the 40B.

Chair Dewey says 48 Richardson Road is a similar lot shape. Attorney Singer says it's not quite as narrow. But also, the lot doesn't need to be solely unique in the district, just generally unique.

Manny Alves asks how the lot ended up this shape. Mr. Egan says they bought it as is. They don't know the history but it looks like it got cut off of something larger long ago. He does not want to include the 40 Richardson Road driveway as an access—he thinks it would be bad public policy.

Manny Alves says they're proposing to make the lot more nonconforming. The hardship they're positing is the inability to sell. Attorney Singer says for the specific purpose. Chair Dewey says 40A and the state don't give the Board that authority—the variance has to stand on its own. Attorney Singer says looking at the prongs opens up their analysis and allows them to look at hardship and public good. Manny Alves says that conflates the second and third prongs. Attorney Singer says if this property is included in another project that wouldn't need the variance, then the house would have to be taken down and that is a hardship. Manny Alves says that's a separate application.

Manny Alves says one document discussed slope/shape factor. Matt Eddy, the project engineer with Baxter Nye says the existing lot is nonconforming to shape factor, and the proposed is also a nonconforming shape factor. It's noted on the ANR. Manny Alves says it was not noticed as part of this application but they are asking for the Board to vary it. He thinks the public needs to be noticed.

Attorney Singer says if the Board doesn't feel they've satisfied the variance requirements, his client can either include the property in the 40B or remove it from the 40B. He thinks the Board could continue the application before opening public comment because if that's required, it would be a significant change.

Herb Bodensiek asks why they wouldn't do a land swap instead of a variance. Matt Eddy says they looked into it but it would be the same ramifications and would still alter the layout.

Chair Dewey opens public comment. He requests that any public comment be limited to this variance and the 3-prong test. The Chairman says the Board received public comment from J. Slater in opposition.

Bill Friel of 60 Richardson Road speaks in opposition with concerns over reducing the natural buffer and being inconsistent with local need.

Patrick Daubert of 113, 60, and 66 Hayes Road speaks in opposition and doesn't think the parcel is uniquely affected.

Hillary Temple of the Wequaquet Estates neighborhood speaks in opposition with concerns over the 40B and that she thinks the 3-prong test has not been met. She requests exhaustive impact studies for this project.

Roger Berman of 164 Point of Pines Ave speaks in opposition with concerns over traffic, water use, and the impact on schools.

Lauren Peruzzi of 30 Brezner Lane Speaks in opposition with a concern that this does not present a hardship to the petitioner.

Mike Burns of 60 Pleasant St. in Hyannis speaks in support. His family has property across the street from Great Marsh Road. He thinks housing is a need and that the Board should make this work.

Jeff Slater submitted a letter but reiterates that he speaks in opposition. It is conflated with the other application because of the state's 40B allowance.

Back to the Board for discussion. Manny Alves says there is a third request that's not been noticed to the public and he thinks it needs to be properly advertised. They are asking for a variance from lot area dimension and lot shape factor but didn't advertise that and it wasn't in their application. It's not a simple request. Attorney Singer says even if shape factor was before them, he is getting a sense that the Board is not accepting their hardship argument, so it may make more sense to withdraw. Paul Pinard is concerned that standing on its own, granting this variance would create a landlocked parcel with no access to anything.

He requests to continue the appeal to the next meeting and will also be asking for a continuance for 2025-025.

Aaron Webb thinks this needs a special meeting in person. The Board discusses whether they need legal advice. The Board discusses whether Zoom or in person is favorable for this appeal and the 40B. They decide to continue to the next meeting and in the meantime, try to arrange a special in-person meeting.

Chair Dewey moves to continue Appeal No. 2025-024 to October 22, 2025 at 7:01 PM. Aaron Webb seconds. The Chairman leaves public comment and the public hearing open.

Vote:

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

Nay: None

Appeal No. 2025-024 Egan Capital LLC is continued to October 22, 2025 at 7:01 PM.

7:01 PM

Appeal No. 2025-025

Great Marsh Development LLC

Great Marsh Development LLC has applied for a Comprehensive Permit pursuant to MGL Ch. 40B Sections 20, 21, 22, and 23 and 760 CMR 30.00 and 31.00. The Applicant proposes to develop an affordable housing community on 5.8 acres. The Homes at Centerville Cove will consist of 19 detached, 3-bedroom, single-family homes. The Residences at Centerville Cove will consist of 36 rental units in one building with a mix of 2- and 3-bedroom apartments. The subject property is located at 39, 51, 61, and 75 Great Marsh Road and 195 Phinney's Lane, Centerville, MA as shown on Assessor's Map 210 as Parcels 124, 125, 126, 134-003, 134-004, and Map 209 as Parcel 020, respectively. They are located in the Residence C (RC) and the Highway Office (HO) Zoning Districts and the Resource Protection Overlay District (RPOD).

No members assigned. Chair Dewey moves to continue the appeal to October 22, 2025 at 7:02 PM. Herb Bodensiek seconds.

Vote:

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

Nay: None

Appeal No. 2025-025 Great Marsh Development LLC is continued to October 22, 2025 at 7:02 PM.

7:02 PM

Appeal No. 2025-028

Smith

Michael D. and Christina D. Smith have applied for a Special Permit pursuant to Section 240-44 Accessory Uses Permitted with Special Permit. The Applicants seek to construct an accessory structure on a lot immediately opposite and across the road from the lot on which the principal use it serves. The subject property is located at 86 Old Farm Road, Centerville MA as shown on Assessor's Map 251 as parcel 005. It is located in the Residence D-1 (RD-1) Zoning District.

This item is taken out of order and is heard first. Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Manny Alves.

Attorney Michael Schulz is representing the applicants. He explains they are seeking relief to build a 450 sq. ft. accessory structure on lot B, which is a vacant lot across the street from the lot with the principal dwelling. The proposal will comply with setbacks and lot coverage (they're at 2.5% lot coverage). The titles to both lots are held in identical names. It is in keeping with the neighborhood—it's common there to have accessory structures across the street from primary structures.

He requests to remove condition no. 3 about full buildout, because he feels that 2.5% lot coverage is not full buildout.

Back to the Board for questions. Paul Pinard asks if they want to remove the whole condition 3 or just first sentence. Schulz says if the Board would prefer to modify, he suggests: "further changes to the accessory structure should be prohibited without prior approval from the Board."

Manny Alves asks what the structure is. Attorney Schulz says it's a sauna and woodworking shop. The Board discusses whether they want to keep condition no. 3 as is.

Chair Dewey opens for public comment. There is none. Chair Dewey moves to close public comment. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Manny Alves

Nay: None

Back to the Board for discussion. There is none.

Paul Pinard makes findings:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit.
2. 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.
3. A Site Plan has been reviewed and found approvable with conditions. *Site Plan Review is not required for this proposed use.*

Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Manny Alves

Nay: None

Paul Pinard says the appeal is subject to conditions 1-4 from the Staff Report dated September 25, 2025, with the following changes: strike the first sentence of condition no. 3 and change 2nd sentence to, "further changes to the accessory structure should be prohibited without prior approval from the Board."

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Manny Alves

Nay: None

Chair Dewey moves to grant as presented. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Manny Alves

Nay: None

Special Permit No. 2025-028 Smith is granted with conditions.

Board Elections

The Board takes a brief recess and the meeting resumes at 8:31 PM.

Chair, Vice Chair, Clerk elections:

Herb Bodensiek nominates Jake Dewey for Chair. Natalie Pittenger seconds.

Votes in favor: Herb Bodensiek, Paul Pinard, Larry Hurwitz, Manny Alves, Natalie Pittenger

Manny Alves nominates Herb Bodensiek for Vice Chair. Paul Pinard seconds.

Jake Dewey nominates Aaron Webb for Vice Chair.

Votes in favor of Herb Bodensiek: Paul Pinard, Manny Alves, Natalie Pittenger, Herb Bodensiek, Larry Hurwitz, Aaron Webb

Votes in favor of Aaron Webb: Jake Dewey

Herb Bodensiek nominates Paul Pinard for Clerk

Votes in favor: Jake Dewey, Manny Alves, Natalie Pittenger, Herb Bodensiek, Larry Hurwitz, Aaron Webb

Discussion

Discussion of Board Rules & Regulations, the zoning amendments proposed to the Planning Board, and pools/pool houses

Jim Kupfer, Director of Planning & Development provides an update that pools and pool houses are part of an ongoing conversation. It's something the Board will see on the Town Council agenda packet for Thursday night: he is requesting a regulatory and zoning subcommittee. As it is now, the public doesn't get to weigh in until late in the process—he is hoping to change that. His request to Town Council is for a subcommittee that would be a public forum to take in suggested amendments and create early drafts. Accessory structures is one of the early ideas the committee could consider.

Chair Dewey asks about the proposed makeup of the committee. Jim Kupfer says as drafted it's 5 members of Town Council. The reason is that they are the policy makers. But his draft is specifically written to allow for public comment and public participation.

Regarding the proposed zoning amendments, Mr. Kupfer says the proposed ones have gone through the process and are now before the Planning Board for public hearings.

Aaron Webb asks what the difference would be between the ad hoc zoning review committee and this proposed committee. Mr. Kupfer says the ad hoc committee was specific to reg agreements and newly adopted zoning. This one would be continual to Town Council as zoning comes forward. His reasoning is that public comment should be heard rather than relying just on staff for concerns. Chair Dewey asks if there is a reason not to have a ZBA member as part of the committee. Mr. Kupfer thinks it is something the Town Council could consider—adding regulatory members.

Correspondence

- 2025-09-25 DRI Referral for Southwind Plaza II
- Transmittal of proposed zoning changes before Planning Board

Matters Not Reasonably Anticipated by the Chair

Chair Dewey says Kris Clark asked him to attend the next Town Council meeting to provide an update on the ZBA. He asks if any members have specific requests of things they'd like mentioned. The Chairman will include that Manny Alves will be taking over Mark's Hansen's seat as a Regular Member and there is another person to be appointed soon.

Upcoming Hearings

October 22, 2025 (remote), November 12, 2025 (remote), December 10, 2025 (remote)

Chair Dewey encourages members to do a site visit for 100 Long Beach Road for that application. He emailed Building Commissioner Brian Florence about the façade but no response yet.

Manny Alves would like to be able to hold meetings somewhere larger, perhaps the high school cafeteria, for appeals with larger attendance. The Board wants to discuss why boards or committees other than Town Council are not allowed to have hybrid meetings. Jim Kupfer says staff can look into options.

Adjournment

Paul Pinard moves to adjourn. Manny Alves seconds.

Vote:

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

Nay: None

Documents Used at this Meeting

- Appeal No. 2025-024 Egan Capital LLC application materials
- Appeal No. 2025-028 Smith application materials
- Staff Report dated September 25, 2025 for Appeal No. 2025-028
- Correspondence: 2025-09-25 DRI Referral for Southwind Plaza II
- Correspondence: Transmittal of proposed zoning changes before Planning Board

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