

Zoning Board of Appeals
MINUTES
Wednesday, October 22, 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 22, 2025, at the time indicated:

The Zoning Board of Appeals Public Hearing will be held by remote participation methods. Public access to this meeting shall be provided in the following manner:

1. The meeting will be televised live via Xfinity Channel 18 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website:
<https://barnstable.cablecast.tv/internetchannel/watch-now>
2. Real-time access to the Zoning Board of Appeals meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Zoning Board of Appeals by utilizing the Zoom link or telephone number and Meeting ID provided below:

Join Zoom Meeting Option	Telephone Number Option
https://townofbarnstable-us.zoom.us/j/87132561642	US Toll-free: 888 475 4499
Meeting ID: 871 3256 1642	Meeting ID: 871 3256 1642

Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to anna.brigham@town.barnstable.ma.us so that they may be displayed for remote public access viewing.

Copies of the applications are available for review by calling (508) 862-4682 or emailing anna.brigham@town.barnstable.ma.us.

Call to Order

Chair 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	
Hurwitz, Larry	X	
Pittenger, Natalie		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

August 27, 2025 - Herb Bodensiek moves to approve. Larry Hurwitz seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

Abstain: Manny Alves (not present)

September 10, 2025 – Chair Dewey moves to approve. Larry Hurwitz seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Aaron Webb, Larry Hurwitz

Nay: None

Abstain: Manny Alves (not present), Paul Pinard (not present)

Old Business

7:00 PM

Appeal No. 2024-039

25 Falmouth Rd, LLC

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building Commissioner in issuing Building Permit BLDC 22-227, dated September 17, 2024. The permit was initially denied pending the receipt of a narrative to explain the expansion of the mechanical bays on the property. The Appellant's position is that the permit fails to take into account evidence and documentation from the town records and files, which conflict with the determination to issue the Building Permit. The subject property is located at 95 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 073. It is located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, February 12, 2025, and April 9, 2025. No members assigned.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Manny Alves.

Attorney Mike Ford is representing the applicant and explains that the Board had previously requested the town's Legal Department comment on standing. We have since received the memo concerning the building permit appeal, but he assumes it applies to both. Legal's conclusion was that the appellant, his clients, do not have standing and that the case needs to be dismissed for lack of jurisdiction. He takes issue because the opinion concludes that the appellant didn't provide evidence in support of claim for standing but there hasn't been a hearing yet so they didn't have any opportunity to provide that. He reserved the right to present evidence at a hearing regarding the issue and the case. His position is that he would like to have a hearing, present his case, then hear from Attorney John Kenney representing the property owner, and then have the Board make a decision on the issue of standing and on merits.

Chair Dewey thinks they are entitled to present their case but is concerned that the Building Commissioner and the Town Attorney are not present. Manny Alves says Attorney Ford is asking the Board to ignore counsel. It's his position that the issue of standing is primary, and if counsel is saying they don't have standing, they can't have a hearing.

Attorney Ford says counsel's opinion is based on the premise that they've had a hearing. He thinks at a minimum both appeals should be allowed in and all attachments should be in the record.

Attorney Kenney doesn't think Attorney Ford is entitled to a full hearing. Jurisdiction is a prerequisite to them proceeding. The Town Attorney based their decision on what was submitted in the application.

The Board discusses whether they have the authority to do what is being asked. The group thinks it makes sense for the Town Attorney to provide guidance.

Chair Dewey moves to continue Appeal No. 2024-039 to December 10, 2025.

Vote:

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

Nay: None

Appeal No. 2024-039 is continued to December 10, 2025.

7:01 PM

Appeal No. 2024-040

25 Falmouth Rd, LLC

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building

Commissioner in a letter dated September 4, 2024. The Appellant believes that the determination fails to take into account evidence and documentation from the town records and files, which conflict with the determination and do not address the concerns raised as set forth in the Appellant's enforcement letters and correspondence. The subject property is located at 95 Falmouth Road and 123 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311, Parcels 073 and 078. Lots are located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, February 12, 2025 and April 9, 2025. No members assigned.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Manny Alves. The Chairman moves to continue this appeal to December 10, 2025. Herb Bodensiek seconds.

Vote:

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

Nay: None

Appeal No. 2024-040 25 Falmouth Rd, LLC is continued to December 10, 2025.

Attorney Kenney asks Anna Brigham to invite the Building Commissioner to attend the December 10 meeting.

7:02 PM

Appeal No. 2025-026

One Hundred Three Long Beach Road, LLC

One Hundred Three Long Beach Road, LLC has applied for a Special Permit pursuant to Section 240-131.4 D. (2) Craigville Beach District Use Regulations and Section 240-131.7. E. Long Beach/Short Beach. The Applicant is seeking to demolish and rebuild a preexisting nonconforming garage. The proposal will decrease the nonconforming side yard setback from the existing 1.1 ft. to the proposed 6 ft. and will increase the gross floor area from 2,837 square feet to proposed 3,028 square feet, an increase of 6.7%. The subject property is located at 103 Long Beach Road, Centerville, MA as shown on Assessor's Map 205 as Parcel 017. It is located in the Craigville Beach District (CBD) and the Long Beach/Short Beach (LBSB) Neighborhood Overlay Zoning District. Continued from September 24, 2025. Members assigned: Dewey, Bodensiek, Pinard, Webb, and Alves.

Larry Hurwitz discloses that he lives diagonally across from this property. He recuses himself and leaves the meeting.

Zac Basinski is representing the applicants and is joined by Attorney John Kenney. The Building Commissioner was asked to weigh in about the bylaw and issued a memo that the word elevation was in reference to flood zone elevations and not structures. They are not impacting flood zone elevations. View corridors were also a concern. Attorney Kenney says the Board questioned whether 240-131.4 applied to structures across the river. He reads 240-131.5 Note 4, which says "from the street to the river or beach." He believes this makes it clear that the view corridor is either the street to the beach or the street to the river. They are actually enhancing the view corridor by moving the garage 5 feet out of that side yard setback, so he submits they meet that requirement.

Back to the Board for questions. Paul Pinard asks for clarification about height. Attorney Kenney says height is not part of view corridor. Manny Alves says the property is subject to a temporary conditional variance for a failed cesspool—he wants to know if this has been reviewed by the Health Dept. given the change in use. Mr. Basinski says if this is approved by the ZBA, they will be back before the Board of Health to update that variance, which is a prohibition to change the septic until the town sewer project comes through. Chair Dewey thinks it's creating an ADU so is treated differently—needs 2 tanks or a compartmentalized tank. Mr. Basinski says that is only if there is onsite septic—this is not onsite septic, but they are prohibited from changing the septic.

Manny Alves asks if this will be subject to approval by the Board of Health. Confirmed.

Paul Pinard thought this included renovations to existing structure but all he can see is elimination of a deck. Mr. Basinski says removal of the deck and adding to the second floor. The footprint is staying the same, there is no proposed increase to the first floor, and the height of the primary residence will stay the same. Manny Alves says one of the cesspools is to be removed on the site plan. Mr. Basinski says they are connecting it all to the primary cesspool. They are removing a shower to reinstall a dry well. Chair Dewey asks if they are asking for any relief other than floor area for the main house. Mr. Basinski says it's the floor area of the main house and to alter the preexisting nonconforming structure because of the ADU. Alterations to the main house are not before this Board. The Board discusses whether they are being asked to sign off on alterations that the applicant is within the limit for.

Public comment is still open. There is none. Chair Dewey moves to close public comment. Manny Alves seconds.

Vote:

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

Nay: None

Manny Alves moves to close the public hearing. Chair Dewey seconds.

Vote:

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

Nay: None

Manny Alves makes findings:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit: *Section 240-131.4(D)(2)(a) and 240-131.4 (E) allows for demolishing and rebuilding of lawfully existing structures with a Special Permit from the Board.*
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. The proposed alteration/expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure. FINDS that By improving nonconformity in moving the garage in, this is not more detrimental.
4. Contributes to and respects the character and historic development patterns of the area and minimizes inconsistent development and redevelopment impacts to the historic and community character resources in this area.
5. Protects and preserves scenic views and vistas and ways to the water.
6. Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district.
7. Protects human life and property from the hazards of periodic flooding;
8. Preserves the natural flood control characteristics and the flood control function of the floodplain;
9. Preserves and maintains the groundwater table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection. Subject to review and approval by the Board of Health.
10. The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it. *Relief is being requested for demolishing and rebuilding of the structure in accordance with § 240-131.4 demolition and rebuilding with maintaining nonconforming setback.*
11. The redevelopment complies with the height limitations set forth herein.

Herb Bodensiek seconds.

Vote:

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

Nay: None

Chair Dewey makes a motion to grant Special Permit No. 2025-026 based on findings, with conditions. Herb Bodensiek seconds.

Vote:

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

Nay: None

Manny Alves says the appeal is subject to conditions 1-5 from the Staff Report dated September 11, 2025. Manny Alves suggests amending to say that the Board's decision remains subject to review and approval by the Board of Health. Chair Dewey thinks it's enough that regulations say "no more detrimental to current conditions." Paul Pinard seconds.

Vote:

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

Nay: None

Special Permit No. 2025-026 One Hundred Three Long Beach Road, LLC is granted with conditions.

7:03 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). Continued from October 8, 2025. Members assigned: Dewey, Bodensiek, Pinard, Webb, and Pittenger.

The Board is in receipt of a written request from Attorney Singer to withdraw this matter.

Chair Dewey moves to accept the request and withdraw the appeal without prejudice. Aaron Webb seconds.

Vote:

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

Nay: None

Variance No. 2025-024 Egan Capital LLC is withdrawn without prejudice.

7:04 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). Continued from October 8, 2025. No members assigned.

The Board is in receipt of a written request from Attorney Singer to continue this matter to January 14, 2026.

Chair Dewey asks if the applicant will be staying within the same legal notice. Anna Brigham confirms. Chair Dewey moves to continue to January 14, 2026.

A member of the public, Bill Friel of 60 Richardson Road, asks for a point of order and asks that staff reissue abutter notices. Chair Dewey says people can always reach out to Ms. Brigham to get updates; everything is put in the public folder. Anna Brigham confirms that the information on the website is up to date.

Herb Bodensiek seconds the continuance motion.

Vote:

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

Nay: None

Appeal No. 2025-025 Great Marsh Development LLC is continued to January 14, 2026.

New Business

7:05 PM

Appeal No. 2025-029

Lippart

Jack and Dale Lippart have applied for a Special Permit pursuant to Section 240-92 B. Alteration or Expansion of Nonconforming Buildings or Structures Used as Single- and Two-Family Residences. The Applicants seek to lift and reposition the existing 3-bedroom single-family dwelling and construct a one and a half story addition on top of the existing dwelling. The renovated and expanded dwelling would be constructed on piles and consist of two and a half stories, 5 bedrooms across 5,473 square feet of gross floor area. The subject property is located at 51 Hawes Ave, Hyannis, MA as shown on Assessor's Map 323 as Parcel 005. It is located in the Residence B (RB) Zoning District.

Chair Dewey assigns himself, Herb Bodensiek, Paul Pinard, Aaron Webb, and Larry Hurwitz. Chair Dewey moves to open the public hearing. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pianrd, Aaron Webb, Larry Hurwitz

Nay: None

Attorney Patrick Nickerson is representing the applicant and is joined by Attorney John Kenney. Attorney Nickerson explains that the first part of this appeal is whether this is legal preexisting nonconforming. It was constructed in 1940 so predates bulk regulations. In 1966 zoning changed again, making 3 of the 4 setbacks nonconforming. The proposed expansion is going upwards, with a net improvement to all setbacks. The proposed increase on the front yard setback is from 17.6 feet to 15 feet. He submits that the proposal is less nonconforming and improves aesthetics. It reduces lot coverage and is similar to neighboring properties.

Back to the Board for questions. Aaron Webb asks the applicant to walk through the site plan. Brendan Reali of Atlantic Design Engineers walks through the existing conditions: a 1-story dwelling with a seashell driveway, wooden deck, and landscaping including a hardscaped seashell walkway. The utilities are on the eastern side. Chair Dewey asks if Whidden Ave is a way to water. Attorney Nickerson says it's a public way up to Hawes Ave and a private way below that to the water.

Mr. Reali walks through the proposed conditions: the proposed dwelling will be on piles with a garage underneath that is enclosed with lattice slats. The seashell driveway will mostly stay the same except for a slight change to match the garage entrance. Minor landscaping changes are proposed.

Roy Catignani of Conserve Group is the project builder. He walks through floor plans and elevations, which adhere to flood plain elevation requirements. Chair Dewey asks for the existing roofline measurement compared to the proposed. Attorney Nickerson says the existing house to ridge is 17 ft. 11 in., and proposed is 49 ft. above average grade. Manny Alves asks how the height compares to the neighborhood. Attorney Nickerson shares pictures of the neighborhood to illustrate that there are similar homes. He submits the water views are enjoyed by virtue of the private way, which is not being changed.

Chair Dewey asks about access right to the private way. Attorney Nickerson says he received a legal memo from the Lipparts that left open the question of access rights for people to access the promenade. It's not definitive and there has been no legal decision.

Chair Dewey asks why it's separated as 51A and B. Attorney Nickerson isn't sure why—they are separate properties and are separately assessed. Chair Dewey asks what is happening to the overhead wire. Jack Lippart says the wires will go underground as part of their plan for both homes.

Chair Dewey opens for public comment. He says the Board received 2 letters in support: Boschetti of 32 Hawes and Orbe of 31 Hawes. Chair Dewey moves to close public comment. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

Chair Dewey moves to close the public hearing. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

The Board deliberates. Chair Dewey is surprised that they are proposing to make it 30 feet higher but since the neighbors are not objecting, it seems to be the way things are moving.

Aaron Webb makes findings:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 B. allows for 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 in accordance with Article IX herein subject only to the issuance of a special permit. *Site Plan Review is not required for single family dwellings.*

Further Section 240-92 B. requires the Board to find that:

4. The proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure. He finds they had public support and are in keeping with nearby houses.

Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

Chair Dewey makes a motion to grant Special Permit No. 2025-029 based on findings, with conditions to follow. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

Aaron Webb says the appeal is subject to conditions 1-5 from the Staff Report dated October 9, 2025. Larry Hurwitz seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Aaron Webb, Larry Hurwitz

Nay: None

Special Permit No. 2025-029 Lippert is granted with conditions.

Correspondence

- Cape Cod Commission Agenda for October 16, 2025
- Preliminary subdivision notification transmittal for 145 Barnstable Road

Matters Not Reasonably Anticipated by the Chair

The group discusses the 2026 schedule that Chair Dewey approved.

Upcoming Hearings

November 12, 2025 (remote), December 10, 2025 (remote), January 14, 2026 (in person)

Adjournment

Chair Dewey moves to adjourn. Paul Pinard seconds.

Vote:

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

Nay: None

Documents Used at this Meeting

- August 27, 2025 minutes
- September 10, 2025 minutes
- Appeal No. 2025-026 One Hundred Three Long Beach Road, LLC application materials
- Staff Report dated September 11, 2025 for 2025-026
- Request from Attorney Singer to withdraw Appeal No. 2025-024 Egan Capital, LLC
- Request from Attorney Singer to continue Appeal No. 2025-025 Great Marsh Development LLC to January 14, 2026
- Appeal No. 2025-029 Lippert application materials
- Staff Report dated October 9, 2025 for 2025-029
- Correspondence: Cape Cod Commission Agenda for October 16, 2025
- Correspondence: Preliminary subdivision notification transmittal for 145 Barnstable Road

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