



**Town of Barnstable
Planning Board
Minutes
January 9, 2012**

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Present
Patrick Princi - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
Cheryl Bartlett	Not Present
David Munsell	Not Present

Also present were Art Traczyk, Regulatory Review Planner, and Jo Anne Buntich, Director, a quorum being met, Chairman Matthew Teague opened the meeting at 7:00 PM.

Approval Not Required Plans:

Bates & Steenstra - A plan entitled “Plan of Land in Barnstable, MA prepared for Richard H. Bates and Eric T. Steenstra Et Ux”, dated October 18, 2011, as prepared by Down Cape Engineering, Inc., has been submitted for endorsement as an Approval Not Required Plan. The plan proposes to reconfigure the lot line between 45 and 67 Old Jail Lane in Barnstable.

No one present to address the matter at this time.

Matt Teague asked staff for comments.

Art Traczyk stated this application seems to be in order and is ready to be signed, the taxes have been paid and there should be no issues.

Raymond Lang questioned if there was a land swap between parcel A and parcel B.

Art Traczyk stated that there would be a swap and the lines drawn accordingly.

Matt Teague confirmed that there would be no new additional parcels.

Felicia Penn moved to endorse this ANR plan, seconded by Paul Curley, so voted unanimously.

Matt Teague stated a change in the order of the Agenda due to the applicant being late.

To all persons deemed interested in the Planning Board acting under Chapter 40A, Section 9, and all amendments thereto of the General Laws of the Commonwealth of Massachusetts and the Town of Barnstable Zoning Ordinances, specifically Section 240-24.1 Hyannis Village Zoning Districts. You are hereby notified of a Public Hearing to be held on Monday, January 9, 2012, at 7:00 P.M., in the Hearing Room of the Barnstable Town Hall, 367 Main Street, Hyannis, MA to consider the Special Permit Application of Rebecca Clancy, Brown Bag Bagel & Deli seeking to locate an A-Frame sign at 70 Center Street. The permit is being sought pursuant to Section 240-71(E)(4) Hardship Location Sign - Hyannis Village Business District. The subject property is addressed 70 Center Street, Hyannis, MA and is shown on Assessor's Map 327 as Parcel 154. It is zoned Hyannis Village Business.

Matt Teague entertained a motion to open the Public Hearing, so moved by Paul Curley and seconded by Felicia Penn.

Kelly Hayden presented herself as one of the owners of this establishment.

Matt Teague stated that he has some confusion as to where the sign will be located in relation to the building.

Ms. Hayden stated that there is a strip of grass next to a brick walkway where the sign would be placed, not on the brick walkway as not to obstruct pedestrians or bikers, it would be completely out of the way.

Matt Teague asked where is the existing sign located and that the sign they are presenting does not have their business name on it?

Ms. Hayden proposes a new sign, which she presented a flyer of, that now has their business name located at the top, eliminating the word MENU that was here previously.

Matt Teague asked where is the sign now?

Ms. Hayden stated at the back of the business.

Felicia Penn asked if there is a sign now at the front of the building?

Ms. Hayden stated there is one at the front of the building which lists the businesses in the location they are at and they are listed at the top of the existing signage now.

Felicia Penn asked, so there is no protrusive sign?

Ms. Hayden stated no there is not.

Felicia Penn asked what is the sign history? She stated that before A Frame signs needed approval/permits, previously she thought there had at one time been a sign of this nature here.

Ms. Hayden stated that the previous owners CJ and Travis Brown did have a sign here without a permit and that they were fined for this. She said that the previous owners also mentioned that this type of sign would be good for the business.

Felicia Penn asked if it was known as to how many feet the business was set back from the roadway?

Ms. Hayden stated she had a map, but did not have this information and wasn't sure of the footage.

Felicia Penn mentioned that the road angled and that the road was going away from the business not toward or parallel to it.

Ms. Hayden said that they purchased the business November of 2010, and they are struggling to make it work.

Raymond Lang asked if other businesses here are using A Frame signs?

Ms. Hayden stated no and that these businesses have been established here for many years.

Matt Teague asked if she could show him where the sign is located on the plan, the traffic island?

Ms. Hayden approached the board and pointed this out to Matt Teague she stated there is a tall sign listing all businesses that are there now and the A Frame sign would not be obstructing the name of the businesses on that particular sign.

Paul Curley asked if the current sign is being obstructed in any way, can it be seen from the street?

Ms. Hayden stated that she supposes the sign can be seen but that this A sign would give them more exposure and information.

Patrick Princi asked how many feet in the air is their sign now, the one that lists all the businesses? He stated that he did not think there was any obstruction to the sign they have now and that there are signs in the window as well.

Ms. Hayden said that this A Frame hardship sign would be more exposure and the present sign is set back and they would like to draw people in.

Patrick Princi asked if this would be in the way of any of the landscaping?

Ms. Hayden stated absolutely not, they have notarized, written permission from the owner of the property.

Matt Teague stated that there was an email received at the Planning Board from Richard Holmes. Stating that as a neighbor living next door at 68 Center Street he sees no problem with this request for a sign of this type being used to attract customers and it would not detract from the areas appearance.

Raymond Lang asked if the sign would be out during business hours?

Ms. Hayden stated yes, from 6 to 2, then they take it down.

Felicia Penn stated that it would still have to go through site planning to be finalized.

Felicia Penn stated that this is a difficult place to have a food service business and there is limited parking, she commended Ms. Hayden for trying to make a go of the business. The angle of the traffic is also difficult to see the building from the roadway. She confirmed the 2 year permit time for renewing. Not historic.

Paul Princi moved to have a second public hearing on Jan. 23rd for this matter due to the permit needing a finalization by site planning.

Matt Teague stated he did not think that a second hearing would be needed if it was made subject to approval.

Paul Princi withdrew his motion.

Motion entertained by Raymond Lang to close the public hearing, seconded by Paul Curley, so moved.

Special Permit Findings read by Paul Princi as follows:

1. The Applicant has demonstrated through (testimony and/or visual) evidence that due to (substantial obstruction of the signage or location of the entrance to the business) a location hardship sign is warranted.
2. The proposed sign conforms to the dimensional requirements for a location hardship sign. However, the message on the sign will need to be amended to include the name of the business so it will conform to the definition of a location hardship sign.
3. The proposed design of the sign is in keeping with the Design and Infrastructure Plan for Hyannis Village Zoning District and its location will not create a nuisance or hazard to pedestrians, motorists or business patrons, nor obstruct safe passage or impede accessibility on the sidewalk. The location will not obstruct views to another business or business sign.
4. The Building Commissioner has reviewed the site plan for the proposed location of the sign and has approved the site location for the sign.

Matt Teague interjected that number 4 is to be amended to read “the Building Commissioner has not approved the location of the sign”.

5. The property is owned by Waterside Properties LLC, and one of the commercial units is leased to Rebecca Clancy who operates the Brown Bag Bagel & Deli. Waterside Properties has assented to this application and given permission for the A-Frame to be located on the property as documented in the December 15, 2011, letter submitted to the file.
6. Given the information submitted and testimony presented, the proposed sign will conform to all required performance standards for a location hardship sign, and will be maintained in full conformance the requirements and standards.
7. The Board is authorized in Section 240-71.E(4) to hear and grant a special permit for a location hardship sign.

8. After evaluation of 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.
9. In issuing a special permit for location hardship signs, the Board has imposed a date on which the permit will expire if not renewed by the applicant. This has been imposed to provide an opportunity to evaluate impacts to the neighborhood, abutting and adjacent business owners, and safe passage for pedestrians.

Felicia Penn requested that number 3 be amended to state “the Applicant will work with Growth Management to assure that sign is in keeping with the Design and Infrastructure plan.....”.

Matt Teague entertained a motion to adopt the Special Permit Findings as amended, so moved by Paul Curley, seconded by Felicia Penn. Voted unanimously.

Suggested Conditions were read by Paul Curley as follows:

1. This permit is issued to Rebecca Clancy d/b/a/ “Brown Bag Bagel & Deli” to allow for display of a location hardship sign at 70 Center Street, Hyannis, MA.
2. The sign shall be an A-Frame measuring 24-inches by 40-inches, as presented to the Board. However, the sign board itself shall be changed such that the business name, “Brown Bag Bagel & Deli” shall be incorporated as the largest text item on the board.
3. The sign shall be maintained in conformance with the performance standards outlined in Section 240-74.E.4.b.
4. The sign shall be located on private property as per the plan approved except that, at no time shall the sign infringe on the brick sidewalk fronting on Center Street.
5. This Special Permit shall lapse on January 31, 2014, unless prior to that date, the applicant applies for and is granted a renewal. Failure of the Planning Board to take action within sixty days of a timely request for renewal shall result in a renewal of said special permit for an additional two years until January 31, 2016. Any permit so extended may be renewed by the Planning Board upon application received prior to the lapse of the special permit.
6. This special permit must be recorded at the Barnstable County Registry of Deeds. A copy of the recorded decision shall be submitted to the Building Division and the Planning Board prior to submission of a sign permit application.
7. A sign permit from the Building Division is required prior to displaying the sign.

Raymond Lang asked if there should be some new wording for the new sign design implemented?

Matt Teague agreed and stated number 2 of the Suggested Conditions should be modified/amended.

Art Traczyk has wording prepared for this as follows:

Final design and review shall be approved by the Growth Management Dept. for consistency with the design and infrastructure plan.

Matt Teague also suggested that a new condition be added as follows:

The approval would be subject to the building commissioner's approval and final sign permit.

Matt Teague entertained a motion to adopt the Suggested Conditions as modified in item 2 and an additional item number 8.

Moved by Patrick Princi and seconded by Paul Curley. So voted unanimously.

Approval Not Required Plans:

Beker - A plan entitled "Plan of Land at 274 Bridge Street in Barnstable (Osterville), MA prepared for Harvey & Jayne Beker", dated June 07, 2011, as prepared by CapeSurv, has been submitted for endorsement as an Approval Not Required Plan. The plan proposes to reconfigure the lot lines between 262 and 274 Bridge Street in Osterville.

Attorney Michael Ford now in attendance for public hearing for approval of this ANR. He stated that the Applicant's wish to exchange pieces of each of their lots for building a new house further away from the wetlands. All of the lots will have same area. Board of Appeals has granted a variance as well and it has been recorded. The lots all have frontage and this plan should be entitled to be endorsed.

Raymond Lang asked if Attorney Ford could provide the board with an explanation for this?

Attorney Ford stated for sake of an explanation the detail of the four small parcels, two of which are being exchanged between the owners of 2D and 1D and the other two between the owners of 1D and 3D as shown on the plan for allowance of a new house to be built on 1D that was farther away from the wetlands, all of the lots end up with the same area that they have at present, simply reconfigured.

Raymond Lang stated that these are to be absorbed into the other lots so there are no hanging lots?

Attorney Ford stated correct and they are all combined, so that there are the same number of lots that currently exist and there is a driveway system that will remain on the property. The frontage for these does qualify.

Patrick Princi moved to endorse this ANR plan, seconded by Paul Curley, so voted unanimously.

7:00 pm Public Hearing

**Proposed Zoning Map Amendment
B District Expansion off Attucks Lane**

The Planning Board of the Town of Barnstable, acting under Chapter 40A, § 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Monday, January 9, 2012, at 7:00 p.m. in the Hearing Room of Barnstable Town Hall, 367 Main Street, Hyannis, MA. The purpose of this hearing

is to take comment upon a proposed amendment to the Code of the Town of Barnstable, Chapter 240, The Zoning Ordinance, Article II, General Provisions, § 6, The Zoning Map of the Town of Barnstable, MA.

The proposal is to amend the official zoning map of the Town of Barnstable titled "ZONING MAP OF THE TOWN OF BARNSTABLE, MA," adopted September 1, 1998 as amended through September 8, 2011, by expanding the B, Business Zoning District as it affects Map 274 Parcel 040-001 located off Attucks Lane in Barnstable. The proposal would rezone portions of this property from Residence G and Industrial IND to Business B for the entirety of the parcel. The proposed expansion of the Business Zoning District is shown on maps entitled "Proposed Amendment to the Town Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001"; "Proposed Amendment to the Barnstable Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001"; "Proposed Amendment to the Hyannis Zoning Map to modify the B, RG, and IND zoning districts in the vicinity of Map 274 Parcel 040-001", all dated October 18, 2011, and prepared by the Town of Barnstable GIS Unit.

Motion to open the Public Hearing made by Paul Curley, seconded by Felicia Penn.

Attorney John Kenney present for this matter. On behalf of the Tarkinow Group.

He explained the map of the Bj's site with the proposed changes. The area runs along the northerly property line of the Bj's site. They are proposing to take the lot and remove the intersecting boundary lines and put them along the property line for Bj's. Then the entire site would be zoned in the business district and would allow for better development of the site.

Raymond Lang asked if the B section on the map is/are the existing boundary lines?

Attorney Kenney stated yes, and the line to the north that states industrial needs to be clarified that it is not a sliver zone and the dash lines are the zoning boundaries.

Raymond Lang asked which line is being moved? The industrial line or the business line in the north side area?

Attorney Kenney stated that the business line is moving to the north. Along the edge of the Bj's property line.

Jo Anne Buntich stated that the proposed changes are all North of Attucks Lane, nothing to the south is changing and the Bj's area is the triangular area, green and yellow areas combined, which represent the ownership of the Bj's parcel/property. These will all be the yellow B area, the same.

Raymond Lang asked if the new border will follow any of the existing lot lines?

Attorney Kenny stated yes and Bj's already owns this area, which will be zoned in one district.

Raymond Lang asked would this change the Bj's entrance in any way?

Jo Anne Buntich interjected that Stop and Shop has begun construction which is lining up with the existing Bj's driveway as a result of this new development (19,000 sq ft.) decision there is a condition that obligates the Tarkinow Group to interconnect to the property to the north through the existing driveway.

Raymond Lang stated he needs more information.

Jo Anne Buntich stated that this is not a sub division, just a driveway and an easement.

Raymond Lang stated that the road here and this situation bothers him because he was under the impression the roads would connect from Attucks Lane to Kidds Hill Rd.

Jo Anne Buntich stated that this has been identified as a land use condition during the DRI process.

Attorney Kenney stated that his client has reluctantly agreed to this condition of the DRI that they connect to the property to the north owned by Cape Cod Aggregates and that this would be a driveway connection when the project is finished. Gonsalves Road is to be completed by 2015. Stubb road A and B will intersect with Attucks and go through to the Cape Cod Aggregates property when built. There is a firm commitment requirement that the connection be made, the location is along the northerly border between the two properties. They do not want to do this now do to access to the sand pits at night.

Raymond Lang asked in other words you are confirming that this will be a called a driveway?

Attorney Kenney stated correct.

Felicia Penn stated previously this matter was discussed for expanding the B district out to Phinneys Lane. She does not know of any residential use in the RG zone today or has there ever been any residential use here.

Jo Anne stated that this is correct. The Planning Board has done some research and would be happy to prepare a map. The Planning Board went from the driveway up to Cape Cod Aggregates, there are no residential uses, primarily used commercially.

Matt Teague stated absolutely, this would make sense. It would include Dr. McNabb's office on the corner as well?

Jo Anne Buntich stated yes. That the board is looking to see how the HB, highway business plays into this situation, and would prepare a couple of draft maps for the board for discussion.

Raymond Lang asked if Attorney Kenney needed any more ANR's for this matter?

Attorney Kenney stated no.

Matt Teague asked if there was any public comment?

Public Comment

Jim Conseli (spelling?) lives in Marstons Mills, writer for the Barnstable Enterprise. Asked Attorney Kenney if he knew the square footage/acreage for these parcels?

Attorney Kenney stated he did not know and stated that the object is to make the whole site one zoning district as opposed to three separate districts.

Matt Teague entertained a motion to close the public hearing, so moved by Paul Curley, seconded by Felicia Penn, so voted unanimously.

Matt Teague entertained a motion to recommend approval of Item 2012-035, Amending The Zoning Ordinance, Chapter 240, Article II by modification of the map, the zoning map as presented this evening, seconded by Paul Curley, voted unanimously.

Approval of Minutes: Approval of December 12, 2011, Board Meeting minutes.

Raymond Lang moved that the minutes of December 12, 2011, be approved as written, seconded by Paul Curley, so voted unanimously.

Executive Minutes: Possible Report of the Chair on review of past Executive Session Minutes.

Matt Teague, stated the following Executive Session Minutes were reviewed, approved and released: October 29, 1990, Flint Lock Village, Sub Div. No. 601, July 1 1991, Drake Mailer, Sub. Div. No. 616, Jan. 27, 1992, Drake Mailer, Sub Div. No. 616, June 1, 1992, Cheryl's Way Sub Div. No. 616, June 1, 1992, Lake Isle Woods, Sub Div. No. 697, Oct. 29, 1995, Sub Div. 336, March 24, 1997, Multiple Road Bonds, March 23, 1998, Peter Blossom, Dec. 14, 1998, Road bond, May 10, 1999, ANR Plan Hamilton Homes, and the last set of minutes has no date, for Hills Subdivision. These have all been approved, reviewed and released.

Raymond Lang asked if all of the Executive Session Minutes have been released?

Matt Teague stated that there are additional minutes that are still pending discussion.

Discussion:

Regulatory Agreement HSR Realty Trust – Kurker – 90 High School Road Extension Hyannis MA – progress on landscape and site improvement - Request to Steve Seymour for update (as requested at meeting of November 14, 2011) See request memorandum and response from Steve Seymour dated December 23, 2011, attached.

Matt Teague asked if the board had any questions?

Raymond Lang asked what was the original purpose for this land to begin with? Stated that Mr. Kurker had wanted this for a boat storage plan and to create jobs. His concern is that the Regulatory Agreement was approved for this and that it now may never see this use, as a boat storage facility. The initiation of Regulatory Agreements were for the starting of businesses/uses and he is concerned that the initial purpose is not being pursued accordingly. The issuance of Regulatory Agreements has only been in effect for five years and he wants to see these made use of properly.

Matt Teague stated the update from Steve Seymour notes that most of the work has been completed, with exception to lighting and plantings.

Felicia Penn stated she is disappointed re the boundaries and the neighborhood updates, lights etc. not being done, (parking lot lights) supposed to be done last spring. The Prohibited Idling signs, No. 22, in the Agreement, Pg. 6, were ever ordered/installed and sidewalk not being done until 2013. She doesn't think it's fair for the neighbors to have to wait 3 years for these updates, landscaping etc. to be done. Thinks a lot more could be done to show that the neighborhood is cared about.

Matt Teague asked if the Planning Board could get some clarification on these items regarding dates for installing the lights and signage.

Jo Anne Buntich stated that the Planning Board does not have enforcement ability and that this would be an inquiry for information and the Planning Board would get as much information as possible. Also, if the Board would like additional action that would have to go through the proper enforcement agencies/departments.

Impulse, LLC – 333 and 349 Iyanough Road Hyannis – review of development for conformity to approved plans – Request to.... update (as requested at meeting of November 14, 2011) See Special Permit No. 2010-01, development plan, and request memorandum attached.

Felicia Penn suggested we move this item to another meeting.

Matt Teague stated yes, there has not been any information for this as of yet.

Addition of the Hyannis Inn & Conference property on Scudder Ave in Hyannis to the Cape Cod Commission's Regional Land Use Vision Map as an Economic Center.

Jo Anne Buntich speaks. Handouts issued. Explanation of the colored areas to the Board of the Strategic Planning Area map/Land Use Vision map. Has spoken with the Cape Cod Commission to explain how the process works to amend the Land Use Vision map. In order for an amendment to take place the Planning Board holds a meeting with the relevant town boards and either chooses to endorse the Land Use Vision map or not. If it is endorsed it moves onto the Cape Cod Commission and if adopted then moves onto the Assembly of Delegates. Asks the Board to review this information and it can be placed on a future agenda.

Felicia Penn asks if the map includes the area under discussion and where did the orange area go before the new material? The area looks larger than previously?

Jo Anne stated that this is the map that's adopted by the Cape Cod Commission. The orange area is the Growth Incentive Zone. The area would take in the Hyannis Inn and Conference Center property, off the rotary and includes the golf course, about 45 acres.

Felicia Penn asked what is the major advantage to a developer (economic center) is it cost, time, certain restrictions?

Jo Anne answers that the Land Use Vision map simplifies development/growth that happens to areas where communities would like it to happen. The Cape Cod Commission has codified this into the map and incorporated it into this updated version. This makes it simpler to develop in an economic center than it would be in a resource protection area.

Felicia Penn asked why can't this be incorporated into the GIZ (depending on the square total)?

Jo Anne states that this is a good question and explains that this is not precluded from this, however, it would be a longer process and raises our offset threshold (4,000 sq. ft short), and there is concern that these offsets may not be able to be accomplished given the level of build up for the town. To amend the Growth Incentive Zone is a much more complicated process that would entail a lot more work/processing.

Felicia Penn recalled that some of the area was requested to be zoned as an economic area and thought that there were some additional adjacent properties, there was a reason it was not done, but could not recall. She would like to continue this matter at another time.

Raymond Lang asked for clarification as to the orange area being the growth incentive area. Wanted to know what the white area next to the purple is?

Jo Anne explained that the white areas are designated as (auto oriented centers or something of that nature), other categories. These did not really have a land use category, and the same for the marine areas etc.

Jo Anne asked when could this come on the Planning Board Agenda?

Matt Teague suggested maybe the first meeting in February?

Raymond Lang asked if the board needed any further information?

Jo Anne reiterated her comment to Felicia Penn regarding the economic center and the Growth Incentive Zone expansion. We can proceed whichever way the board would like.

Raymond Lang stated that the board did take into consideration other areas of expansion, not just downtown. He's wondering if the Growth Incentive Zone could be expanded easily?

Jo Anne comments that expanding this would require a lot of work from staff. Initially Growth Incentive Zone had previously accomplished many aspects for preliminary permits etc. would have to be done again for this particular parcel. Land Use Vision map is more simple and would move on to the Cape Cod Commission. In addition we are working with the Town Council to include this parcel in the regulatory agreement map, this is another amendment that is in process.

Matt Teague confirmed to move this to the first meeting in February.

Proposed Zoning Amendment to Sections 240-125, 240-130.5 and 240-131.8.A, to address a scrivener's error within the Centerville Village and Craigville Beach Districts of Critical Planning Concern Implementation Regulations, that omitted authorizing appeals to the Zoning Board of Appeals by persons aggrieved by orders or decisions of administrative officials and the rights to further appeal those decisions of the Zoning Board pursuant to MGL Ch. 40A, §17.

Jo Anne stated Growth Management is working with legal on this matter. This may appear on the Town Council agenda. Two fold approach that is a zoning ordinance change. There is a Section in each, but this particular part was missed.

Matt Teague stated would this be inferred in Chapter 40(a)?

Jo Anne stated the implementing regulations are not Chapter 40(a).

Correspondence:

Notice of Chapter 91 Waterway License Application to construct and maintain a new 75-foot boardwalk, 70-foot timber pier with a 10-foot ramp, and a 20-foot float in West Bay at 120 Carriage Road, Osterville, MA.

Notice of Chapter 91 Waterways License Application to construct and maintain a new fixed 10 by 16-foot platform and pier structure, 25-feet into and over the waters of Lake Elizabeth, at 780 Craigville Beach Road, Centerville, MA, the "Trade Winds Condominiums".

Cape Cod Commission - Notice of Modification of Development of Regional Impact Decision, Atlantis Development (Stop & Shop) – Update plan references and revised building elevations.

Cape Cod Commission – Limited Development of Regional Impact and Hardship Exemption (Project of Community Benefit) Decision – Airport Way Nominee Trust, My Generation Energy, Inc., for the construction of 1.38MW solar array at 180 Airport Way, Hyannis, MA.

Future Meetings:

Regularly Scheduled Planning Board Meetings – January 23rd and Feb 13 @ 7:00 p.m.

Motion entertained to adjourn by Matt Teague, seconded by Raymond Lang, so moved.

The meeting adjourned at 8:19.

Respectfully Submitted *Karen A. Herrand*
Karen A. Herrand, Principal Assistant

Approved by vote of the Board on *Feb. 13, 2012*

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>