



TOWN CLERK  
BARNSTABLE, MASS.

**The Town of Barnstable**  
**Growth Management Department**  
[www.town.barnstable.ma.us/growthmanagement](http://www.town.barnstable.ma.us/growthmanagement)



Jo Anne Miller Buntich  
Director

**TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM**  
**MINUTES**

**December 1, 2010 – 6:00 pm      Town Hall, Hearing Room**

**Present:** Laura F. Shufelt, Hearing Officer, Cindy L. Dabkowski, Accessory Affordable Apartment Program Coordinator

- Hearing Officer Laura F. Shufelt called the meeting to order at 6:00 p.m.

**Appeal 2010-29 DeMello**

- Ms Shufelt read the legal ad as published in the Barnstable Patriot. She then read the findings and conditions to the applicant Adiles DeMello to ensure compliance with all of the program requirements.
- Public Comment was requested. No one spoke in favor or opposition to an Accessory Affordable Apartment located at 50 Pine Grove Avenue, Hyannis MA
- Ms Shufelt granted comprehensive permit 2010-29 with conditions.

**Appeal 2010-30 Clark**

- Ms Shufelt read the legal ad as published in the Barnstable Patriot. She then read the findings and conditions to the applicant Arthur F Clark to ensure compliance with all of the program requirements.
- Public Comment was requested. Three Abutters spoke in opposition to an Accessory Affordable Apartment located at 158 Wintergreen Circle, Osterville See attached details of opposition
- Ms Shufelt continued Comprehensive Permit 2010-30 Clark hearing to January 19, 2011 at 6:00 p.m.

**Appeal 2010-31 Cecere**

- Ms Shufelt read the legal ad as published in the Barnstable Patriot. She then read the findings and conditions to the applicant Steve Cecere Jr. to ensure compliance with all of the program requirements.
- Public Comment was requested. Two abutters sent in letters of opposition to an Accessory Affordable Apartment located at 67 Huckelberry Lane Marston Mills.
- See attached for details of opposition
- Ms Shufelt continued Comprehensive Permit 2010-31 Cecere hearing to January 19, 2011 at 6:05 p.m.

**Appeal 2001-108 Pappas**

- Ms Shufelt read the legal ad as published in the Barnstable Patriot.
- She then read the background and findings to rescind Comprehensive Permit No. 2001-108 Pappas.
- Ms Shufelt rescinded Comprehensive Permit No. 2001-108 Pappas

**Appeal 2004-29 Childs**

- Ms Shufelt read the legal ad as published in the Barnstable Patriot.
- She then read the background and findings to rescind Comprehensive Permit No. 2004-29 Childs.
- Ms Shufelt rescinded Comprehensive Permit No. 2004-29 Childs

**There being no other business the hearing adjourned at 6:45 p.m.**

2010 DEC -7 PM 3:41  
TOWN CLERK  
BARNSTABLE, MASS.

November 29, 2010

Town of Barnstable Zoning Board  
Laura Schufelt  
Hearing Officer

Committee:	MAAP ZBA
Mtg. Date:	12/1/10
Exhibit #:	1

Re: Appeal # 2010-30 Clark

Dear Ms. Schufelt:

We are writing in response to the public hearing item on December 1, 2010 regarding the Clark application for a comprehensive 40B permit. We live at 38 Wintergreen Circle and the two-story house in question directly overlooks our backyard.

We have always maintained a friendly relationship with our neighbors the Clarks and we do not want to be unreasonable, however after looking through the Zoning Board and Town Record files regarding this dwelling, we have some concerns to address.

We are not opposed to 40B housing, however, we are concerned about the way the Clarks have built this unpermitted house over the years and then after the fact used variances and special permits to make the additions legal.

We accepted this two-story house overlooking our backyard because it was there when we built our home. We did not realize the history of this building but after being notified about this Dec 1 hearing, we reviewed the documents on record with the Town, and learned how it came to be there. The original garage was built without a permit, and then after the 10 year statute of limitations passed, was grandfathered into compliance. The second story addition to the garage was also added without a permit and the Clarks obtained a special permit after the fact to allow the second story addition as an 'in-law apartment'.

The second story addition, now an in-law apartment was never intended to be permanent, as stated by Mr. Clark in the 1990 Zoning Board of Appeals hearing to gain the variance and special permit for the conversion to an in-law apartment (see attached). Mr. Clark stated in the record that the second story addition 'was not' and 'is not' intended to be permanent and when no longer needed would be 'removed'. This promise has not been delivered even though the structure has been vacant for many years.

Approving this dwelling for a 40B Housing variance without enforcing this agreement first, would negate this statement by Mr. Clark. The 1990 special permit also stated that the shed and overhang would be removed to bring the building in compliance with the variance prior to the special permit taking effect. There continues to be a storage shed in the location noted and an overhanging storage area attached to the structure. If these are the same structures as noted in the 1990 ZBA decision then the special permit never took effect and this family apartment remains out of compliance.

To call this building an apartment does not truly describe it. It far exceeds the size of an in-law apartment and in reality is a second house of over 1100 square feet built on the same half acre as the main house. The look of the second story addition is out of character with the other homes in the neighborhood and it stands out in view from the rear of our home and yard. The second story that directly faces the back of our house has large glass sliding



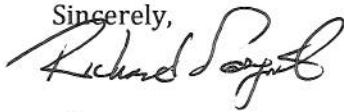
doors instead of windows (see photo attached) and these sliding doors are completely open to views of our entire backyard, providing a direct view into the back of our house including our deck and second floor bedrooms.

This house, combined with the Clark's main house puts 6 bedrooms on a half-acre lot in a contribution zone without a Title 5 septic system. Even with the mandated changes to drop the bedrooms to four it remains above the allowed level and utilizes an outdated septic system, which should be upgraded prior to approving any permit of this type.

Approving this dwelling for 40B housing without adjustment would just be another circumnavigation of the proper building process. We request that the Board require the Clarks to fulfill the promise made in the 1990 ZBA request and remove the second story addition. Doing so would still allow them a 1 bedroom apartment for 40B use, would return the property in question back to the neighborhood's character, and would provide more reasonable privacy for our home and property.

Thank you for your consideration.

Sincerely,



Richard Sargent  
Alison Sargent  
38 Wintergreen Circle  
Osterville

December 1, 2010

Committee:	AAAP ZBA
Mtg. Date:	12/1/10
Exhibit #:	2

Town of Barnstable Zoning Board  
Laura Schufelt  
Hearing Officer

Re: Appeal #2010-30 Clark

Dear Ms. Schufelt:

We are writing in response to the public hearing item on December 1, 2010 regarding the Clark application for a comprehensive 40B permit. We live at 116 Wintergreen Circle and the two-story house in question abuts and overlooks our backyard.

We have recently moved to the neighborhood and were unaware of the long history involved with this dwelling until we reviewed the Zoning Board and Town Record files. We have some concerns regarding his request.

First, the route Mr. Clark chose to obtain permitting for the structure has consistently been backwards and an obvious avoidance of the proper permitting process.

40B housing certainly serves the community and we are not opposed to 40B housing. However, our concern is that the original garage was built *without a permit* in 1979, and then after the fact grandfathered into compliance. Following that a second story was added to the garage *without a permit*, and called a "family room" and later the Clarks obtained a special permit to use the second story as an "in-law apartment".

In order to have the second-story permitted Mr. Clark stated that the second story addition "was not" and "is not" intended to be permanent and when no longer needed would be removed. In

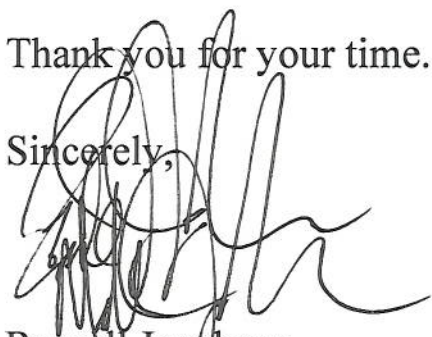
obtaining approval of the "in-law apartment" Mr. Clark agreed that the existing shed and overhang would be removed. A storage shed and overhang storage area are still attached to the two-story in-law apartment.

Our second concern is that the total dwelling is 6 bedrooms on a .31 acre lot in a contribution zone without a Title 5 septic system. Town of Barnstable code (in existence since 1987) restricts parcels of one acre or smaller to three bedrooms within zones of contribution. Even with the required changes in the permitting process to reduce the total bedrooms to four it is still over the allowance and uses an outdated septic system, which should be upgraded if permitted.

We respectfully request that the Clarks are required to fulfill the promise made in the 1990 ZBA request and remove the second story addition. Doing so would still allow them a 1 bedroom apartment for 40B use, would return the property in question back to the neighborhood's character, and would provide more reasonable privacy for our home and property.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Jacobson", written over the word "Sincerely,".

Russell Jacobson  
Michelle Jacobson  
116 Wintergreen Circle  
Osterville



**Dabkowski, Cindy**

**From:** carolyn connolly [capecodcc@gmail.com]  
**Sent:** Wednesday, December 01, 2010 4:31 PM  
**To:** Dabkowski, Cindy  
**Subject:** cercere huckleberry lane hearing for apartment

Committee:	AAAP ZBA
Mtg. Date:	12/1/10
Exhibit #:	3

To Zoning Board:

My name is Carolyn Connolly and I live directly across from 67 Huckleberry Lane, Marstons Mills at 68 Huckleberry Lane.

My concerns about the apartment:

1. The house abuts conservation, and fairly recent expansion of and widening to driveway infringes on the conservation.
2. A separate parking space was made *in front of* or *on* the conservation area and directly across from my driveway. My driveway runs up hill to my house.  
 I am concerned if this space is used as a permanent parking space, I am going to come down my driveway and hit a car if one is parked there.  
 I am also concerned that it is on the conservation area.
3. I believe the apartment will open out onto the conservation area, and I am concerned about water runoff from appliances, and general usage and taking over of the conservation area.
4. The house is a very small 2 bedroom home on a small lot, and I am concerned about the number of people who will reside at the house, bringing traffic and parking congestion to the street, which is a quiet, residential area.
5. If the apartment is approved, I request it be approved for no more than one adult, and that parking be specified and limited to the land belonging to the home.

Thank you.

**Dabkowski, Cindy**

**From:** Carol MacDonald [carol1157@gmail.com]  
**Sent:** Wednesday, December 01, 2010 4:32 PM  
**To:** Dabkowski, Cindy  
**Subject:** meeting tonight Huckleberry Ln apt.

	AAAP
Committee:	2BA
Mtg. Date:	12/1/10
Exhibit #:	4

Thank you for taking my comments.

My name is Carol MacDonald, 78 Huckleberry Lane, Marstons Mills MA. I have lived at this address 26 years. When I moved here it was known as "Sand Shores" a wooded area in Marstons Mills". This is a single family neighborhood with most homes on small close .25 acre lots. I live across the street from Mr. Cesare. I strongly object to his request to add an apartment. There is no extra room for parking. People cannot park in the street. As it is now it is hard or sometimes almost impossible to back out of ones driveway because the street is not wide. Once winter and snow are here, the snow plows will not be able to plow. I live at the bottom of a hill in the middle of our street and every year when it snows, as I back out of my driveway, I usually get stuck and slide back towards where someone will be parked and will have no room to get myself unstuck or not hit someone.

I also most strongly object as Mr. Cesare's property abuts EPA Protected Wetlands. EPA Number 841B98009 dated from September 1998. It is also a much needed vernal pool that always had lots of wildlife. Every year the peepers were almost deafening. We would see the spotted salamanders running through my yard and turtles laying eggs and many other types of life. Over the last 2-3 years, things have been changing.

My house is very similar in size to Mr. Cesare's and I cannot imagine adding more people, more showers, toilet flushing, kitchen sink, dishwasher, laundry or whatever else pollutes ALL of our Wetlands and our groundwater.

One last thing I would like to add is that Mr. Cesare filled in some of the wetland area to widen his driveway, something the previous owner had inquired about and told me was told, the lot is what it is and the answer was no. One day when I saw them doing it, I stopped and said to Mr. Cesare that he was not on his own property, and the men that were helping him said "oh they knew and they were going to fix it". Well, when I came home, nothing was fixed. He widened his driveway on his own terms and now there sits a boat covered in a tarp.

I don't mind the boat, but as I said this is mostly a single family neighborhood, and I don't believe adding an apartment in this area would favor anyone other than Mr. Cesare.

Thank You, Carol MacDonald

12/1/2010