



**Town of Barnstable
Planning Board
Minutes
August 12, 2013**

BARNSTABLE TOWN CLERK

2013 OCT 30 PM 1:28

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Present
Patrick Princi - Clerk	Present (7:28)
Felicia Penn	Present
Raymond Lang	Present
David Munsell	Present
Stephen Helman	Present

Also in attendance were Art Traczyk, Regulatory Review Planner.

Approval Not Required Plans: - A plan entitled "Plan of Land at 305 & 315 Baxter's Neck Road, Barnstable (Marstons Mills) Mass" dated July 26, 2013, prepared by CapeSurv has been submitted for endorsement as an Approval Not Required Plan. The subject property is addressed as 305 and 315 Baxters Neck Road, Marstons Mills, MA. The plan is intended to adjust the lot line between the two developed lots. No new lots are being created by this Plan.

Richard L'Heureux from CapeSurv in attendance. He gives a brief explanation of the request.

Paul Curley makes a motion to endorse this ANR plan, seconded by Stephen Helman, so voted unanimously.

Approval Not Required Plans: -A plan entitled "Approval Not Required Plan Prepared for Fourteen & Fifteen Joaquim Road Realty Trust 58 & 66 Joaquim Road (Hyannis Fire District) Barnstable, MA," dated July 29, 2013, drawn by Braman Surveying & Associates, LLC, has been submitted for endorsement as an Approval Not Required Plan. The plan proposes to combine two lots into one. It will correct the infringement of the buildings that now straddle the property line.

Robert A. Braman of Braman Surveying and associates, Inc. in attendance. He gives a brief explanation of the request.

Ray Lang refers to the plan (Exhibit A) and asks what are the two rectangular lines within the lot?

Robert Braman answers that these are the existing buildings.

Matt Teague entertains a motion to endorse this ANR plan, moved by Paul Curley, seconded by Stephen Helman, so voted unanimously.

Subdivisions:

7:00 P.M. Public Hearing (Continued)

**Definitive Subdivision No. 820, Wayside Lane Ext.
Stephen E. Wallace et al.**

To all persons deemed interested in the Planning Board acting under the General Laws of the Commonwealth of Massachusetts, Chapter 41, Sections 81A, through 81GG, Subdivision Control and all amendments thereto and the

Town of Barnstable Chapter 801, Subdivision Regulations of the Code of the Town of Barnstable you are hereby notified of a Public Hearing to be held to consider Subdivision No. 820. The plan for this subdivision is entitled "Definitive Plan of Land in West Barnstable, MA "Wayside Lane Ext." as prepared for Stephen E. Wallace et al. The plan proposes the division of 5.84 acres addressed 0 High Street, West Barnstable into two developable lots and the extension of Wayside Lane to serve the new lots. The subject property is shown on Assessors Map 110 as Parcel 007.

- *Application submitted January 15, 2013, extended 160-days – filing of Decision due September 20, 2013.*

Matt Teague entertains a motion to open the public hearing, moved by Ray Lang, seconded by Paul Curley.

Dan Ojala of Down Cape Engineering, Inc. in attendance. He gives a briefing of the history and information that was needed from the last meeting.

He hands out copies of revised plans, dated August 12, 2013, (Exhibit B).

He hands out copies of a Turning Radius Sketch dated August 12, 2013, (Exhibit C) and points out how the turning T now provides turning movement for the Fire Dept's ladder truck.

Road name confirmation, it will be Wayside Lane Extension. He gives a history of the documents that were needed.

Art Traczyk directs to Dan Ojala that we need documentation/confirmation of the road name.

Dan Ojala hands a copy of email dated August 12, 2013, from Frank Schlegel (Exhibit D) to Art for the Planning Board's file.

Ray Lang asks about the house on lot 2 and the location of it.

David Munsell asks about Stephen Seymour's report and the clarification needed for completion.

Dan Ojala answers that he had spoken with Stephen Seymour and he was fine with everything.

Art Traczyk interjects and refers to Stephen Seymour's report (Exhibit E), dated August 2, 2013.

Felicia Penn asks if there are any circumstances of homes being built anywhere other than where they have been allotted to be?

Dan Ojala answers not major. Lot 1, the house is where it wants to be, Lot 2 could slide around a bit.

Felicia Penn makes reference to the draft Notification of Approval, Conditions and Restrictions, item e., (Exhibit F) "The Conservation Restriction to be imposed on Lots No. 1 & 2 that restricts use and building within the designated Vegetation & Wildlife Conservancy areas." There is no language that states if there is any substantial change of location of a building. She has some concerns due to the topography, drainage and slope issues in the area.

Matt Teague asks if someone comes in for a building permit application would they have to file a notice of intent? How would this work with conservation, need for another full order of conditions?

Dan Ojala explains that Lot 1 would need a notice of intent for sure, footprint is grandfathered. Lot 2 is not near the wetlands and it depends on the phase at that time. The master well and septic plan pretty much dominates as to where things can be cited. He doesn't see anybody building on the 15 ft. slope area.

Felicia Penn refers to the Development Agreement, pg. 2, item number 4 (Exhibit G) "The Applicant agrees to construct the ways and install the utilities within eight (8) years from the date....." She asks if this is adequate?

Dan Ojala answers yes, this is fine.

David Munsell asks why burden with exact positioning of where the houses would go? This isn't necessary with a subdivision.

Dan Ojala answers/explains that steep hill here and new buffer regulations.

Paul Curley asks if there are sprinklers here?

Dan Ojala answers yes. Fire Chief said they would need this because of the distance. Surge tank needed.

Matt Teague asks for any public comment? None.

Matt Teague entertains a motion to close the Public Hearing, so moved by Ray Lang, seconded by Felicia Penn, so voted unanimously.

Matt Teague entertains a motion to approve this Definitive Subdivision Plan, as revised August 12, 2013, moved by Ray Lang, seconded by Paul Curley, so voted unanimously.

Patrick Princi enters at 7:28 p.m., but then recuses himself do to the subject of Wayside and his right to exclude himself from this matter. (Previous recusal of this matter in all previous hearings)

Paul Curley reads into record the Decision section, pg. 4, of the draft Notification of Approval (Exhibit F) as follows:

- Sheet A (1 of 5) shows the basic subdivision of the property identifying the proposed lots and the defined metes and bounds for each lot. The plan also defines the proposed Way, access and drainage easements, outlines the proposed buildable portions of each lot, and vegetation and wildlife conservancy areas to be protected.
- Sheet B (2 of 5) shows the basic land division,
- Sheet C (3 of 5) is titled; Erosion & Sedimentation Control Plan identifying wetlands and the 50-foot and 100-foot buffers to the wetlands as well as slopes in excess of 10%,
- Sheet D (4 of 5) titled; Road Profile Plan shows the existing topography and the proposed finish grade of the roadways,
- Sheet E (5 of 5) titled; Detail Sheet shows typical roadway section, wooden guardrail detail and rain garden area section with overflow drainage detail.

This approval includes the grant of the following three requested waivers from the Code of the Town of Barnstable, Subdivision Regulations:

- § 801-26 (B) Width, alignment and grades of streets. (1) Appendix Design Standards, Typical Road Cross Section: for a reduction in overall pavement width including berms from 18' to 16', with the exception that at the existing cul-de-sac of Wayside Lane, the overall pavement shall be 18' (including berms) and taper down to 16' once the roadway enters the subdivision property as shown on Sheet 4 of the plans approved and cited above.
- § 801-26 (B) Width, alignment and grades of streets. (7) Centerline grade of stub tee to allow a 9% grade instead of the maximum 6% allowed within 500' of a dead end, and
- § 801-50 Side Slopes, to allow a 2:1 cut and fill slopes adjacent to the roadway shoulder rather than the maximum 3:1 cut and fill slopes provided a wooden guardrail is installed and maintained along those areas where the slope has been increased.

As required by §801-5(B), the Board specifically finds that the grant of the waivers requested from the construction standards for this 2-lot Subdivision is in the best interest as it will maintain the rural character of the area and reduce the impacts on the sensitive environment in which the subdivision is located.

Except for those waivers cited above, no other waivers from the Subdivision Regulations are granted or implied.

Matt Teague entertains a motion to accept the waivers as discussed, presented, so moved by Stephen Helman, seconded by Felicia Penn, so voted unanimously.

Stephen Helman, reads into record the Conditions and Restrictions of the draft Notification of Approval, pg. 5, (Exhibit F).

Conditions and Restrictions:

And furthermore, approval of this Subdivision is subject to the following conditions and restrictions:

1. Prior to the endorsement of the subdivision plan, the applicant shall complete and endorse;
 - a. A Development Agreement with the Planning Board for completion of the subdivision.
 - b. A Form F - Covenant placing the two proposed Lots No. 1 & 2 as surety for completion of the subdivision.
 - c. A Form S - Road Maintenance and Repair requiring the applicant and successors in title to be responsible for all maintenance (including snow removal) and repair for Wayside Lane Extension.
 - d. A Public Access Easement in favor of the Town of Barnstable extending from the public way of Wayside Lane over the private way of Wayside Lane Extension and along a 20-foot wide easement over Lot No. 1 following the Old Vehicle Tracks to the Town's Conservation land located to the northwest.
 - e. The Conservation Restriction to be imposed on Lots No. 1 & 2 that restricts use and building within the designated Vegetation & Wildlife Conservancy areas.
 - f. The Declaration of Protective Covenants notifying future owners of Lots Number 1 & 2 of their responsibility to perform certain improvements and commitment to long term road maintenance.
2. The applicant shall submit a check in the amount of \$2,000.00 payable to the Town of Barnstable. Which check shall be held to ensure recordation at the Registry of Deeds a copy of this decision notice when final approval by the Town Clerk, the endorsed subdivision plan, the signed Development Agreement, the Covenant, an executed Form S, the Conservation Restriction for Lots No. 1&2, the Access Easement in favor of the Town of Barnstable over Wayside Lane Extension and Lot 1 in the subdivision and The Declaration of Protective Covenants-Homeowners Association.
3. Copies of the recorded decision notice, subdivision plan, Development Agreement, Covenant, Form S, Conservation Restriction, Access Easement and Declaration of Protective Covenants- Homeowners Association documents shall be returned to the Planning Board, Growth Management Department within 30 days after the Board's endorsement of the plan. Upon evidence of the recordation of all the documents cited above, the \$2,000.00 check required in Condition 2 shall be returned to the applicant. If no evidence, or insufficient evidence, is provided the check shall be cashed to cover the cost ~~or~~ of recording the documents.
4. Prior to the construction of Wayside Lane Extension and/or the installation of any utilities, the applicant shall secure the approval and permit from the Town Engineer for connecting with the public way, Wayside Lane.
5. At least two weeks before commencement of construction on Wayside Lane Extension the applicant shall notify the Town Engineer, the Director of Public Works, the Conservation Division and the Growth Management Department of their intent to start construction on the way.
6. With respect to connecting Wayside Lane Extension with the existing Wayside Lane, the applicant and/or representative shall be responsible for protecting the right-of-way of Wayside Lane including road pavement, utilities and grass slopes from damage. Any damage to the right-of-way of Wayside Lane and its utilities caused by the construction of the Extension shall be the responsibility of the applicant and/or representative to repair and restore to the condition that existed before construction of the Extension.
7. The existing driveway that now serves the subject subdivision property shall be discontinued upon completion of Wayside Lane Extension. That driveway area shall be planted with appropriate native vegetation to restore the plant and wildlife habitat.
8. The two lots created in this subdivision shall be held in covenant as surety for completion of the subdivision including construction of Wayside Lane Extension and the private driveway on Lot 2. The lots shall only be

released upon submission of as-built plans and issuance of a Certificate of Completion for the subdivision unless surety, in a form approved by the Town Attorney's Office and in an amount satisfactory to the Board's Engineer, is posted with the Town of Barnstable after consent of the Planning Board.

9. The applicant and all successors in title to the subdivision or to a lot(s) therein shall be required to install a fire suppression system at the time of building a dwelling on the lot. Any deed to a lot(s) in the subdivision shall include this requirement that all dwellings (buildings intended for human habitation) shall be required to have a fire suppression system installed at the time of construction.
10. Development of any lot in the subdivision shall be required to fully conform with the Board of Health recommendations as expressed in the February 22, 2013, letter of approval.
11. Development of the lots shall be required to be in full compliance with all state and local Board of Health regulations for on-site septic disposal and for on-site potable wells without variance or waivers from any state or local requirement. This restriction shall carry to all successors in title to the subdivision and shall be included in all future deeds to the property and the deeds to the lots created by the subdivision.
12. Development of the subdivision shall conform to all requirements cited in Stephen Seymour, P.E. and Engineer to the Planning Board Memorandum dated August 2, 2013.
13. During the excavation and installation of the two roadway leaching pits observations will be required by the applicant's engineer to ensure the system does not extend into the area where the perched groundwater was found in TP 2 and 3. The engineer will provide his inspection notes and photos to the Board's Engineer indicating the system was installed in suitable material and not in the area with the perched water.
14. The Subdivision Regulations road construction standards for minor "B" roads "typical road cross section" shall apply to the proposed private driveways to the proposed building site for Lots Number 1 and 2 and to the "T" pavement intended to accommodate the turning movements of fire and emergency vehicles located on both Lot 1 and Lot 2 as shown on the approved plans.
15. This subdivision approval shall be in effect upon recordation of this decision notice, its referenced plan, and all documents cited in No. 1 of Conditions and Restrictions herein with the Registry of Deeds and shall expire eight (8) years from the date of endorsement of the subdivision plan by the Planning Board. This subdivision is subject to all regulations of Chapter 801, Subdivision Regulations of the Code of the Town of Barnstable in effect January 15, 2013, except as waived herein.

Matt Teague states correction needed for item no. 3, last line, should be changed to of from or. (so noted above)

Matt Teague entertains a motion to adopt the Conditions and Restrictions items 1 through 15 as modified, so moved by Paul Curley, seconded by Ray Lang, so voted unanimously.

Felicia Penn asks for confirmation that the associated documents with this subdivision are subject to approval by the Town's Legal Dept.?

Matt Teague answers yes. Suggested to modify/add the language in the Lot Owner Declaration of Protective Covenants, pg. 1, item no. 4 (Exhibit H) to state "Residences constructed on Lot 1 and Lot 2 shall have residential fire sprinklers in accordance with current NFPA 13R" putting into consideration when this project may actually begin.

Dan Ojala states that he will get the check for \$2,000 to the Town.

Matt Teague answers he doesn't think so.

Felicia Penn asks about the 12 year differential between the Development Agreement and the length of 8 years to put in the roads and utilities (Exhibit G).

Art Traczyk answers that he would like to strike the wording on the Development Agreement, pg. 2, item no. 9 (Exhibit G) "twenty (20) years" and replace "This agreement shall be in full force and effect for twenty (20) years from the date of execution of the agreement or until the Planning Board finds that the Subdivision has been completed and fully executes Form M, the Certificate of Completion and both lots released."

Regulatory Agreement:

7:00PM Continued Hearing

Regulatory Agreement No. 2013- 03

**Hyannis Harbor Suites Hotel, LLC or Nominee &
Harborview Hotel Investors, LLC**

Regulatory Agreement No. 2013-03 is the application of Hyannis Harbor Suites Hotel, LLC or Nominee & Harborview Hotel Investors, LLC, seeking to enter into an agreement with the Town of Barnstable to construct and operate at 213 Ocean Street, Hyannis, MA a new four (4) story year-round hotel with up to sixty-eight (68) rooms, each room containing its own kitchen facility. This proposed hotel building is in addition to the existing 136 room Hyannis Harbor Hotel situated on the 3.4 acre lot. The subject property is located in the HD-Harbor District of the Hyannis Village Zoning Districts and is shown on Assessor's Map 326, Parcel 035.

The Regulatory Agreement seeks waivers from the Barnstable Zoning Ordinances, specifically:

Section 240-24.1.7.A – Harbor District, Permitted uses to allow hotel rooms with kitchens.

Section 240-24.1.7.C – Harbor District, Dimensional, bulk and other requirements, including maximum building height, to allow 4-stories where only a 2.5 story buildings are permitted, waivers of the 10-foot minimum side and rear setbacks, waiver of the 70% maximum lot coverage and waiver of the 10-foot front yard landscape setback.

Section 240-24.1.10 - Site Development Standards and Section 240-53 – Landscape Requirements for Parking Lots, including waivers from the following; the 6-foot minimum setback for parking lots, 10% interior parking lot landscaping, required minimum number of trees, dumpster setback from lot line and any other necessary relief.

Section 240-56 - Schedule of Off-Street Parking Requirements to allow a reduction in the required on-site parking.

In addition, the Regulatory Agreement seeks relief from the general ordinances of the Town, Chapter 112, Article III, Hyannis Main Street Waterfront Historic District seeking the Planning Board to act on behalf of the Hyannis Main Street Waterfront Historic District Commission.

Matt Teague entertains a motion to continue this public hearing to August 26, 2013, at 7:45 p.m., moved by Patrick Princi, seconded by Ray Lang, so voted unanimously.

Special Permit:

7:15 P.M. Public Hearing (Continued)

**Modification of PIAHD Special Permit Settler's Landing II
Subdivision No. 812 - Martha M. Morin, Trustee of Settlers
Landing Realty Trust II**

The Planning Board acting under the General Laws of the Commonwealth of Massachusetts, Chapter 40A, Section 9, and all amendments thereto and the Town of Barnstable Zoning Ordinances will open a Public Hearing to consider an application for a fourth Modification for the Private Initiated Affordable Housing Development (PIAHD) Special Permit issued for Settlers Landing II - Subdivision No. 812. The Petitioner, Martha M. Morin, Trustee of Settlers Landing Realty Trust II, is seeking:

- To add two new house plans, identified as the "Dover Plan" containing approximately 2,051 square feet of living area and the "Chatham Plan" containing approximately 1,736 square feet of living area to the list of the 11 approved house design plans for the development and,

- To allow for up to five of the 29 dwellings to be built as four-bedroom homes provided the fourth bedroom is created within an approved house design plan.

The locus is the southern 7.75 acres of the subdivision commonly known as Settler's Landing located off Castlewood Circle in Hyannis, MA. The 29 parcels are shown on Assessor's Map 273 as Parcel 122, Lots 013 through 027 and Assessor's Map 272 as Parcels 212 to 225. The lots are addressed from 75 to 174 Settler's Landing, Hyannis, MA. The locus is Zoned Residential C-1.

- *The hearing was opened May 13, 2013, at which time the Board decided to bifurcate the application into Part 1 and Part 2. Part 1 covered the request to allow two new house style plans to be introduced and Part 2 covered the request to allow up to 5 of the homes to be built as four bedroom single family dwellings. At the May 13th hearing, the Board granted Part 1 allowing for a twelfth and thirteenth house plan to be used. Part 2 was continued to June 24, 2013 and to August 12, 2013 to allow for Review and Opinion of the Town Attorney Office.*
- *This hearing was voted a continuance to August 12, 2013, at 7:15 p.m. by the Board with the requirement that all back taxes owed on the subdivision lots would be paid in full and verification from the Tax Collector's Office that all taxes on the Applicant's lots are current, and an opinion from the Town Attorney shall be provided to the Board at the August 12, 2013, meeting.*

Matt Teague entertains a motion to continue this public hearing to September 9, 2013, at 7:30 p.m., moved by Paul Curley, seconded by Ray Lang, so voted unanimously.

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

Matt Teague states that there has been no further release of Executive Session Minutes.

Nomination and Election of Officers - Continued

In accordance with MGL Chapter 41 Section 81A, Municipal Planning and Subdivision Legislation, Planning Board and MGL 40A Section 9, The Zoning Act, Special Permits, Special Permit Granting Authority, notice is hereby given that the Planning Board will consider nominations and election of officers for Chairman, Vice-Chairman and Clerk from its membership

- *At the July 22, 2013 meeting of the Board a nomination committee consisting of Paul R. Curley, Stephen Helman and Raymond B. Lang was created and charged to report back to the full board with nominations for Board Officers.*

Ray Lang states that he served as Chairman of the Nominating Committee, Paul Curley and Stephen Helman were members as well. They have discussed and recommend the following to the Board:

Matt Teague will remain as Chairman, provided that he agree, which he does.

Paul Curley agreed that he would serve as Vice Chairman.

Stephen Helman will accept the nomination for Clerk, and he agreed.

Felicia Penn makes a motion to accept the nominations as presented, seconded by David Munsell, so voted unanimously.

Approval of Minutes: Approval of April 8, 2013, Board Meeting Minutes.

Matt Teague entertains a motion to approve the April 8, 2013, Minutes as presented, moved by Paul Curley, seconded by Ray Lang, so voted unanimously.


Future Meetings: Regularly Scheduled Meetings: August 26, 2013, and September 9, 2013, @ 7:00 p.m.

Matt Teague gives an update for the Medical Marijuana. Packets of information are handed out to Board members from Staff for review of the latest information.

Matt Teague entertains a motion to adjourn, moved by Ray Lang, seconded by Stephen Helman, so voted unanimously.

The meeting adjourned at 7:56 p.m.

Respectfully Submitted


by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

October 28, 2013

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

List of Exhibit Documents

- Exhibit A** – Plan of Land dated July 29, 2013 – File ANR 58 & 66 Joaquim Rd., Barnstable
- Exhibit B** – Plan of Land (5 pgs.) revised, dated August 12, 2013 – File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit C** – Turning Radius Sketch, dated Aug. 12, 2013 – File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit D** – Email correspondence from Frank Schlegel, dated August 5, 2013 – File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit E** – Report from Stephen Seymour, dated August 2, 2013 – File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit F** – Notification of Approval (draft decision) File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit G** – Development Agreement (draft) File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.
- Exhibit H** – Lot Owner Declaration of Protective Covenants (draft) File Definitive Subdivision No. 820, Wayside Lane Ext., Stephen E. Wallace et al.