



**Town of Barnstable
Planning Board
Minutes
September 23, 2013**

BARNSTABLE TOWN CLERK

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

Also in attendance were Art Traczyk, Regulatory Review Planner, JoAnne Buntich, Director, Growth Management Dept.

Approval Not Required Plans: *None*

Subdivisions: *None*

Zoning Amendments:

7:00 P.M. Public Hearing - Continued

**Zoning Amendment - TC Item No. 2013-055
Medical Marijuana Treatment Centers**

The Planning Board of the Town of Barnstable, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will continue the public hearing to take comment upon the following proposed amendment to the Code of the Town of Barnstable, Chapter 240, the Zoning Ordinance. Amendments to Chapter 240 include: Section 240-6 Zoning Map to include a Medical Marijuana Treatment Centers Overlay District; adding to reserved Section 240-30 Medical Marijuana Treatment Centers Overlay District Special Permit; and Section 240-128 Definition to add definitions pursuant to the Medical Marijuana Treatment Center Overlay District.

- *This hearing opened January 14, 2013, continued January 28, 2013, February 25, 2013, May 13, 2013, and to September 23, 2013 for further review and update.*
- *Final Mass Department of Public Health regulation have been approved and issued. Phase 1 of the Commonwealths application process has been initiated and those applications are presently being reviewed to determine which applications will be invited to proceed to Phase 2 of the application process.*
- *The Board and Town Council held a joint public hearing on Extension of the Temporary Moratorium on Establishing and Permitting of Medical Marijuana Treatment Centers and Associated Activities.*

JoAnne Buntich explains that they are still working on the study. The Town Attorney and she recommend that the Board continue this matter to the last meeting in February, which would be February 24, 2014, at 7:00 p.m.

Matt Teague asks for any public comment? No public comment.

Paul Curley makes a motion to continue this to February 24, 2014, at 7:00 p.m., so moved by Ray Lang, seconded by Stephen Helman, so voted unanimously.

Regulatory Agreement:

7:30 PM 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.

- *Opened April 8, 2013, continued June 10, 2013, July 22, 2013, August 12, 2013, August 26, 2013 and to September 23, 2013 - continued for further review and finalizing of a Regulatory Agreement*

Attorney Michael Ford in attendance. Matt Eddy in attendance. Doug Cohen in attendance.

This matter is scheduled to be heard at 7:30. The Board defers and waits to hear this Public Hearing at the designated 7:30 Agenda time.

The Chairman decides to take some Procedural Matters out of context on the Agenda and address them in the interim.

Procedural Matters:

Subdivision No. 820 – Plan Endorsement:

Wayside Lane Extension - Stephen E. Wallace et al.

On August 12, 2013, the Board voted to approve Subdivision No. 820, Wayside Lane Extension, for Stephen E. Wallace et al. That plan involved extending Wayside Lane approximately 203 feet into a 5.9-acre parcel and dividing that parcel into 2 developable lots. The decision was signed and filed with the Town Clerk's Office on August 15, 2013, and the 20 day appeal period has elapsed. The Town Clerk has certified the decision and plan and the Board may now endorse the plan for recording.

Patrick Princi recuses himself from this matter.

Signature of final plan needed. The plan gets signed by 4 members (requires 4 signatures).

Correspondence: Cape Cod Commission notice Cape-wide Fertilizer Management District of Critical Planning Concern Acceptance of Designation Decision (sent previously to board members via email on 9/9/2013), received 9/6/2013.

Approval of Minutes: Approval of May 13, 2013, Board Meeting Minutes

Felicia Penn moves to accept the minutes as presented, seconded by Ray Lang, so voted unanimously.

A ten minute recess is taken.

Regulatory Agreement:

7:30 PM Continued Hearing

Regulatory Agreement No. 2013- 03

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

Attorney Ford gives a brief history. Conservation has approved. They have had some meetings with Town Manager's Office. He makes reference to the mitigation provisions and regulatory agreements regarding benefits and contributions to the town.

Three areas Town Managers Office believes need to be some sort of contribution that the town could utilize; Firstly, the area directly behind hotel, Bay Street, concerns of parking along the street within the layout, caused congestion with traffic etc. Town would like to extend and construct sidewalks in the area that would connect to existing sidewalks in the area. May be useful to prevent some of the parking with no permission, reclaim right of way. The Applicant has agreed with contributing to this.

Second, the parking and the congestion in the area. A master plan that town could use going forward for parking. The Town would like to conduct overall study and plan for the parking. Applicant has agreed.

Third, current hotel is deficient for water pressure on Ocean St., the long term plan would be to upgrade the water main and the infrastructure for. Applicant has agreed.

Parking, they continue to work with an offsite location. They would like to come back with proposal for this. With respect to the mitigation, they would like some input.

Paul Curley asks about the sewer, the increase in flow?

Attorney Ford answers that the Town did not seem concerned about this. They did not feel that mitigation would be necessary for this issue.

Felicia Penn asks about water main/pressure. How can the Fire Dept. state that the new building would be fine, but the current hotel is deficient?

Attorney Ford explains that they conduct a fire flow test to see if there is adequate pressure. Fire Dept.'s concern is their ability to be able to fight a major fire with the existing hotel. Increased pressure and new water main would assist them in this. Not needed to meet the code for the new hotel addition.

Matt Eddy interjects that the existing structure does not have sprinkler system and the type of construction of the pre-existing bldg. would require a higher fire flow, more gallons per minute than the proposed flow. The new bldg. would require much less because it will have a sprinkler system and be of a different construction type and would meet the ISO standards.

Doug Cohen states that the new bldg. would have plenty of fire flow, the existing hotel would be the issue due to no sprinkler system, however mitigation would contribute/pay for new water main which would solve this problem.

Felicia Penn asks about the figures/monies that were discussed for the mitigation items.

Attorney Ford states that the Town would like the right to shift the money around for the three issues discussed, with \$50,000 being allotted for each one, for a total of \$150,000.

Felicia Penn asks if Bay Street would be the area for a proposed sidewalk? Permitted boat owners park here and no one walks here, this would be a waste of money, maybe Nantucket Street.

JoAnne Buntich interjects that there is no plan, this has just been a general discussion.

Ray Lang asks why did they go to Town Manager? The Planning Board has not gotten to mitigation yet, he is concerned about who is doing the mitigation, should be the Planning Board.

Attorney Ford answers that they were contacted by the Town Managers Office. The negotiation process for a regulatory agreement does state that they talk to other boards, commissions etc. for the project.

David Munsell confirms that they have gone through a formal meeting with conservation. Asks if they have discussed anything regarding tax credits?

Matt Teague comments about offsite parking. His opinion is that offsite parking would be better or a good compliment to this project, but it will not be used year round. Should more funds be allocated for the parking?

Ray Lang agrees with the Chairman. The money should be used toward the parking issue firstly. Any mitigation should start with parking plan/solution.

Stephen Helman asks how this particular amount of funds/formula became allocated for the mitigation?

Attorney Ford answers he doesn't know of any formula, maybe the town had an overall master plan. Each project is different. Some do not have cash payments

Felicia Penn comments and directs to Stephen Helman's question that some time ago, there was some discussion about a workshop for mitigation formulas but Town Council did not want the Planning Board to proceed with this.

She states that there is really no choice but to do offsite parking. This couldn't be allowed in another case where the business was across the street. She's conflicted about offsite, because she's concerned about where it would be. Surrounding lots are over capacity now. Have to be aware of the ramifications of this. She doesn't want to see space taken away from the surrounding residents for parking.

JoAnne Buntich directs/comments to Stephen Helman that another component to the mitigation is the amount of zoning relief the project is looking for. She agrees with Felicia Penn that there was an attempt made previously for mitigation formula, but no action taken (impact fee).

Paul Curley suggests concentrate on the parking and definitely the water main, because this is a safety issue. He thinks sidewalks could go away, rather see parking. Get creative, there is opportunity and some space for parking structures. Town has to do the parking study, but has to deal with the whole area here. Something has to be done.

Patrick Princi, agrees that the parking needs an overall fix, important to stay involved with the Town.

Matt Teague asks in terms of offsite parking, how many spaces were you thinking of, 20 to 40 range?

Attorney Ford answers 20 to 25 spaces, based on a .8 ratio. They needed an overflow plan. Around 25 works. The Building Commissioner is comfortable with that.

Matt Teague asks if they have ever looked at putting parking on the first floor, putting 20 spaces underneath?

Attorney Ford answers that they have, but this would raise the building over 50 ft. Historic likes how it is now. It's not off the table, they will look at that.

Matt Teague asks for any public comment. No public comment.

JoAnne Buntich asks/directs to the Board how they would best like to proceed?

Matt Teague asks if there are any deadlines for this regulatory agreement application? What's the next step?

JoAnne Buntich explains that they can prepare a rough draft for the Board to look at and review.

Matt Teague would like to see mitigation done as part of the project.

Matt Teague entertains a motion to continue this Public Hearing to October 28th, at 7:00 p.m., so moved by Ray Lang, seconded by Stephen Helman, so voted unanimously.

Special Permit:

7:30 PM New

**Modification PIAHD Special Permit Schooner Village
Subdivision No. 813 - Jacques N. Morin, Trustee**

To all persons deemed interested in 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 you are hereby notified of a Public Hearing to be held to consider an application for a Modification for the Private Initiated Affordable Housing Development (PIAHD) Special Permit issued for Schooner Village - Subdivision No. 813. The Petitioner, Jacques N. Morin, Trustee of Schooner Village Realty Trust, is seeking to

allow a new house plan "The Belmont", a one-story, three-bedroom single-family dwelling of 1,709 sq.ft., with an attached two-car garage to be built at 49 Schooner Lane, Hyannis, MA.

The PIAHD locus is 8.58 acres in area, consisting of 29 lots identified as; Assessor's Map 273, Parcel 204 and Parcels 204-001 through 204-017, and Map 272 Parcel 056-006 and Parcels 203 through 211. The property is addressed 5 through 150 Schooner Lane Hyannis, MA. The property is in a Residential C-1 Zoning District.

Matt Teague entertains a motion to open the public hearing, so moved by Ray Lang, seconded by Felicia Penn.

Steven Musselman of 79 Schooner Lane, in attendance. He is here in place of the Applicant, Jacques Morin who is absent and he makes reference to correspondence from Jacques Morin, dated September 22, 2013, (Exhibit A). They were the first to own a home in Schooner Village, six years ago. He is the Director of Schooner Village Residents Association, however he is not here in this capacity tonight. He gives a history of the modification that the Applicant is requesting, new home design the Belmont. The Housing Committee is in unanimous support as long as a previous modification from July 2011, was recorded and this was recorded last Friday (Exhibit B). The last affordable home is currently under construction.

He refers to the Elevation drawing of the plan (Exhibit C) he distributes the following documents/items to the Board: Photos of the same design house as it exists in Settler's Landing, (Exhibit D) and (Exhibit E) a simple sketch plan that refers to the Elevation plan (Exhibit F) additional support signature page (Exhibit G) and copy of Schooner Village Site Development Plan layout (Exhibit H).

Matt Teague asks for public comment.

Natalie Pittenger, of 9 Schooner Lane in attendance, in opposition. She would like no changes here. She would like this special permit application denied by the Board. She has correspondence dated September 22, 2013, from Jeanne Taber of 29, Schooner Lane, in opposition (Exhibit I) which she reads into record. Ms. Taber is unable to attend the meeting tonight. She hands out a copy of her letter to the Board (Exhibit J) and Ms. Taber's letter.

Dr. Salvatore Bonanno of 140 Schooner Lane in attendance, in opposition. He reads a letter into record from Jeremy R. Cadrin of 150 Schooner Lane, who could not be in attendance tonight, in opposition (Exhibit K).

He comments that the owners keep the neighborhood looking good and Mr. Morin does nothing to maintain lots. He asks the Board to do what is good for the residents and deny the request for change.

Marie Souza, Marketing Agent for Settlers Landing and Schooner Village, in attendance. She states that this is a modified plan that is already at Schooner Village. She explains why there is a request for this model. She is proud to represent the Developer, Jacques Morin and Bayberry Bldg. She recommends that the plan be passed. By completing this subdivision it can only be good for the whole of the community and elimination of vacant lots.

Mr. Mussleman responds/answers that he thinks the goal is to have this subdivision completed as soon as possible. This would probably address the issues regarding the public comment taken tonight as well. The goal Mr. Morin has is to have completed by this time next year. He makes reference and reads a letter dated March 9, 2010, from Dr. Salvatore Bonanno, which was in support of a design change for Schooner Village in 2010 (Exhibit L).

Ray Lang asks about the Homeowners association, has it been the group that would deal with what's going on, cleaning etc. in this subdivision or does Jacques Morin do this?

Mr. Mussleman replies that yes there is participation and a Board. Since the covenant has been passed to the Board for enforcement they have not cited anyone for not cleaning up yard.

Felicia Penn comments that this was a grueling process for this PIAHD in the beginning. There was a lot of concern about the quality of this project. She's bothered that there are divisions throughout the 29 lots, bothered that people are taking sides. The Homeowners Association needs to become unified. She cannot support this for these reasons.

Paul Curley comments that the question here isn't necessarily the change of the design. Who is the president of the Homeowner's Association? He cannot support this, he agrees with Felicia Penn. Supporting this sends the wrong message to the Developer. If the Association was in support, he would say yes, but this is disturbing to have this much dissension at this stage. He cannot support this either.

Patrick Princi comments that after hearing the public comment and letters read tonight, he cannot support this at this time.

Stephen Helman comments that he sees both sides of the issue. There is hostility here and this is the means of expressing it. He thinks there needs to be some discussion. He is torn.

Matt Teague comments that this request is not much of a difference in the square footage. He directs to the opposition that the best thing that can happen is to get this subdivision done, homes built and move forward. He's in support.

David Munsell comments that he is impressed with Mr. Morin's developments. It is really not the house being objected to. Home values will rise do to this improvement. The problem has been the timing of getting this project done/completed. The dip in real estate has prolonged the completion of this project. He is in support of this.

Stephen Helman makes a motion to continue this public hearing to November 25, 2013, at 7:00 p.m., seconded by Paul Curley, so voted unanimously.

David Munsell suggests that members of the Board take a ride through the Schooner Village Subdivision.

Future Meetings: Regularly Scheduled Meetings: October 28, 2013 & November 25, 2013, @ 7:00 PM.

Matt Teague entertains a motion to adjourn, moved and seconded by Stephen Helman, so voted unanimously. The meeting adjourned at 9:02 p.m.

Respectfully Submitted 
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on November 25, 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** – Letter dated September 22, 2013, from Jacques Morin informing not be able to attend meeting and representation of Steven Musselman on his behalf – File Special Permit Modification for Subdiv. No. 813
- Exhibit B** – Recorded Decision dated July 26, 2011 – File Special Permit Modification for Subdiv. No. 813
- Exhibit C** – Elevation Plan dated Aug. 23, 2011 – File Special Permit Modification for Subdiv. No. 813
- Exhibit D and Exhibit E** – Photograph (2) of the Belmont House as developed for Settler's Landing – File Special Permit Modification for Subdiv. No. 813
- Exhibit F** – Sketch Plan exterior/interior of Belmont House – File Special Permit Modification for Subdiv. No. 813
- Exhibit G** – Support signatures dated September 14, 2013 – File Special Permit Modification for Subdiv. No. 813
- Exhibit H** – Site Development Plan (street layout) of Schooner Village and proposed Belmont House, revised March 17, 2010 – File Special Permit Modification for Subdiv. No. 813
- Exhibit I** – Opposition correspondence dated Sept. 23, 2013, from Jean Taber – File Special Permit Modification for Subdiv. No. 813
- Exhibit J** – Opposition correspondence dated Sept. 23, 2013, from Natalie E. Pittenger – File Special Permit Modification for Subdiv. No. 813
- Exhibit K** – Opposition correspondence dated Sept. 23, 2013, from Jeremy R. Cadrin – File Special Permit Modification for Subdiv. No. 813
- Exhibit L** – Support correspondence dated March 9, 2010, from Salvatore M. Bonanno DDS – File Special Permit Modification for Subdiv. No. 813