



# Town of Barnstable Planning Board

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BARNSTABLE TOWN CLERK

## Board Members

Paul Curley – Chair   Stephen Helman – Vice Chair   Felicia Penn – Clerk   Patrick Princi   Mark R. Ferro   Raymond Lang   David Munsell  
John Norman – Town Council Liaison

## Staff Support

Art Traczyk – Design/Regulatory Review Planner – [art.traczyk@town.barnstable.ma.us](mailto:art.traczyk@town.barnstable.ma.us)  
Karen Herrand – Principal Assistant – [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable Planning Board Minutes June 22, 2015

Paul Curley – Chairman	Present
Stephen Helman – Vice Chairman	Present
Felicia Penn – Clerk	Present
Raymond Lang	Present
David Munsell	Present
Patrick Princi	Present
Mark Ferro	Not Present

Also in attendance were JoAnne Miller Buntich, Director, Elizabeth Jenkins, Principal Planner and Karen Herrand, Principal Assistant, Growth Management Dept.

## Call to Order:

## Introductions:

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Chair Paul Curley asks for recognition that there are two Planning Board members here tonight attending their last Planning Board Meeting, Felicia Penn and Patrick Princi. They have over 20 years of service between them and we hope they come back.

## Approval Not Required Plans:

### **ANR Plan: 3580 Main Street, Barnstable – Swift**

A plan entitled “Plan of Land in Barnstable, MA being a Division of Lot 2 as shown on Plan Book 268 Page 44” dated June 8, 2015, has been submitted by William and Catherine Swift for endorsement as an Approval Not Required Plan. The plan proposes a division of a 4.75 acres parcel into two lots. The property is located at 3580 Main Street, Barnstable, MA as shown on Assessor’s Map 318 as Parcel 050. It is in the RF-1 and RF-2 Zoning Districts.

William Swift, the owner of 3580 Main St., Barnstable in attendance. He gives a brief explanation of the request for this ANR, divide into two lots, lot 2 will not be buildable, for conveyance purposes only.

Ray Lang asks if there any restrictions/easements to get to property.

William Swift answers that there is an easement. The neighbor, which is right to pass and re pass.

**Motion made by Stephen Helman to endorse/approve this ANR, seconded by Patrick Princi, so voted unanimously.**

**ANR Plan: 259 North Street, Hyannis – 259 North Street, LP**

A plan entitled "Plan of Land Being a Division of Lot 6 as shown on Land Court Plan 8094C" dated June 8, 2015 has been submitted by 259 North Street LP for endorsement as an Approval Not Required Plan. The plan proposes the division of a .85 acre lot into two lots, each to contain one existing structure. The property is located at 259 North Street, Hyannis as shown on Assessor's Map 308 as Parcel 073-002. It is in the Hyannis Village Business Zoning District.

Dan Ojala from Down Cape Engineering in attendance along with the Applicant, Stuart Bornstein. He gives a brief explanation of the request for this ANR. Reference is made to the Plan, Exhibit A.

Ray Lang asks about North Street and the right of way, is this 10 ft. wide and is this a public way? Setbacks or stairs for a way being created? Why are they looking for a new perimeter if access anywhere?

Dan Ojala replies that this is the property of 259 North St. and this is land courted. 259A will have rights over this as well. Whole area is town parking lot, public restrooms and cross easements here. It's community parking area with lots of access. They will give an easement across the panhandle for the foot traffic, the HVB will allow us to go right down to the lot line.

Reference is made to the aerial view rendering, Exhibit B, which shows the parking lot areas and the cross easements, sidewalks etc. Mr. Bornstein will be selling the 259B and needs a division in order to do this.

Ray Lang asks if this was subdivided and do the rights of way become access to North St. and how?

Chair Paul Curley states that the way he understands this, in order to be acceptable to be approved it has to have frontage.

Elizabeth Jenkins clarifies there are no ways, this is just a division of two lots.

David Munsell refers to the Staff Report, Exhibit C, which states that this does meet the requirements.

**Motion made by David Munsell to endorse/approve this ANR, seconded by Felicia Penn, Ray Lang abstains. The ANR is approved.**

Chair Paul Curley moves item out of order:

**Special Permits:**

**Special Permit No. 2015-002 – Jason T. Ethier, Trustee - 445 South St., Hyannis**

*Public Hearing opened on May 11, 2015, continued to June 8, 2015, continued to June 22, 2015*

*Members Assigned: Curley, Helman, Lang, Munsell, Princi, Ferro*

Jason T. Ethier, Trustee, Tajmahal Realty Trust is seeking a Special Permit pursuant to Section 240-94(B) – Expansion of a Preexisting Nonconforming Use and modification of the conditions of Special Permit Nos. 1955-9 and 1956-6, as necessary. The Applicant seeks to construct a third building on the property. The building would contain a two-car garage and one-bedroom apartment on the first floor; a three-bedroom apartment on the second floor; and a game room with a roof deck on the third floor. The subject property is addressed 445 South Street, Hyannis, MA Assessor's Map 308, parcel 195. It is zoned SF Single Family Residential District.

Attorney John Kenney in attendance representing the Applicant, Jason T. Ethier. He would like to request to withdraw the application without prejudice, initially, at the first hearing they had started with six members and one member, David Munsell has been allowed and has done a Mullin in, which only one member is allowed to do. Also, Mark Ferro is not here this evening which would put the Board down to



five members instead of six. Ray Lang has made his position clear that he would vote against this. We need five positive votes, therefore we would like to withdraw without prejudice and come back at a later time.

**Motion made by Patrick Princi to accept the request for withdrawal without prejudice from the Applicant, seconded by Stephen Helman, Felicia Penn abstains because she was not at the first hearing. The motion passes.**

**Subdivisions:**

**Preliminary Definitive Subdivision Plan for Subdivision No. 824 As yet unnamed subdivision located off River Rd. in Marstons Mills - Continued from June 8, 2015, to June 22, 2015**

Review of Preliminary Plan for Subdivision No. 824 entitled; Subdivision No. 824 Preliminary Plan of Land in Marston Mills (Barnstable, MA) Prepared for Shirley E. Peterson, TR. A Preliminary Plan Application to divide a 5.9 acre parcel into 2 lots has been submitted to the Planning Board. The property is shown on Assessors Map 61 as Parcel 02. The property is zoned Residential RF, RPOD, WP, and is located within NHESP, Priority Habitats of Rare Species. One waiver has been requested.

Dan Ojala of Down Cape Engineering in attendance for the Applicant, Shirley Peterson. Reference to plan/modifications, handed out at meeting, see Exhibit D. He gives an explanation of the plan. Trying to transfer Parcel A to neighbor, Mr. Roderick, this would resolve a zoning setback issue. Requesting a waiver for a gravel drive, with paved apron, also would like to do a turning tee, rather than a cul de sac.

Reference is made to correspondence/peer review comments, dated June 17, 2015, received from Horsley Witten Group, Exhibit E. Reference is made to Dan Ojala's email of June 22, 2015, in response, see Exhibit F.

**Exhibit E – Peer Review Comments**

1. Shape factor. He disagrees with their interpretation of this, an over reach of how written.
2. Permission letter, attached.
3. Form S is standard with waivers.
4. These items were added to the plan (see Exhibit D).
5. Driveway is owned by the abutter, Mr. Roderick.
6. Site distances. Reference to picture of sight, Exhibit G (2 pgs.). No problems with this.
7. Six inches of loam.
8. This will be adjusted with the definitive plan and profile
9. Shape factor issue and drainage calculations. Will argue this at the definitive stage.
10. Waiver 3:1 ratio will be looked at more closely in the definitive plan.
13. Roadway Foundation, good candidate for t-base soil. Will recommend when definitive stage.
14. Erosion controls will be done.

There are two lots on six acres of land. The Fire Chief will weigh in at the definitive stage. Water main near the turning tee. Will work with neighbor re the close set backs and the drive. A letter will need to be done for the NHESP for notification when begin process.

Ray Lang asks if there will only be two houses built here? Will it be well water, hydrants? Is road 40 ft. wide? Pavement in cul de sac? Drainage easement on 1 lot? Waivers?

Dan Ojala answers yes, two houses. Probably water will be run in, there is a main on River Rd., which is a public road. There will be one hydrant. This will be a 40 ft. right of way, that goes into paved cul de sac, in the shape of a turning tee. Hydrant where turning tee will be. Yes drainage on 1 lot, which drops to a kettle hole, River Rd. is protected for drainage.

Waivers would be added for the 3:1, 4:1 slope and to not have to pave except for the first 40 ft. – two waivers.

David Munsell directs to Staff, asks who will be overseeing the project? Don't have an Engineer?

JoAnne Buntich clarifies and answers that when we get to definitive plan stage we will make a decision then. She feels comfortable with the Horsley & Witten review. There will be more opportunity at the definitive stage to get into questions, i.e., shape factor.

Felicia Penn asks about the naming of the subdivision and the road, when you get to the definitive stage, plan.

Dan Ojala answers yes they are working on that, Pete's Path is a perspective name.

Chair Paul Curley asks for some guidance from Staff re procedure for this.

JoAnne Buntich clarifies the options to deny or approve, or approve with conditions for preliminary plan. The Board can give some direction regarding conditions to consider.

Ray Lang states that the Board would like to see drainage calculations.

Dan Ojala replies, yes, of course.

David Munsell asks about the Rivers Act, 200 ft. away? A portion of this is in here? How does it affect the subdivision?

Dan Ojala answers yes, a portion of the land does fall in the River's Act. Conservation would handle this. This will not affect the subdivision. This is a long way away, downhill from the site.

JoAnne Buntich asks if the Applicant would anticipate having the no take letter from Natural Heritage so as to understand if any of the roadway would be affected?

Dan Ojala replies yes, they can do that.

**Motion entertained by Chair Paul Curley to approve this preliminary subdivision with conditions, moved by Ray Lang, seconded by Stephen Helman, so voted unanimously to approve.**

**Completion for Subdivision No. 454 Whistleberry**  
*Continued Ongoing Discussion*

Review of Developer progress to date; discussion of payment for peer review of technical submissions from the Developer's engineer; other correspondence, and possible vote.

Attorney Michael Schulz in attendance. He gives a history/update of the schedule of the events thus far and over the last month. Reference is made to June 17, 2015, correspondence from Horsley Witten Group, Exhibit E. Item No. 1 is due to be complete by July 15, aka as Item No. 9 in the 2002 Development Agreement. They have submitted a series of plans and engineering reports and these are ready for review.

They have been working with residents along Whistleberry Drive to obtain easements. They have obtained an easement from Lot No. 6, and they have heard from Attorney Sabatt tonight that the property owner of Lot 7 are looking for \$85,000 for an easement, this will have to be re addressed and they may have to move the roadway in front of Lot 7. They will have their engineer working on this in the coming weeks.

Chair Paul Curley asks what kind of time frame can be expected on that?



Attorney Schulz replies that this is a new situation that they just found out about tonight. They will need to work with engineer and the Conservation Commission regarding the roadway and areas that are near the bog.

We have obtained an easement from the owner of the Cranberry Bog, Berry Hollow Drive. The 1995 Development Agreement allowed maintenance and construction of the roadway outside of the layout. His client did construct the roadway in accordance with the plans and it was signed off in 2004. The owners did sign an agreement for an easement. There is a lot of progress going on.

Chair Paul Curley asks if the schedule originally made for completion in October will be met? What about the peer review – directed to JoAnne Buntich?

Attorney Schulz answers yes.

JoAnne Buntich answers that we were given a plan and drainage calculations. Growth Management does not have access to engineer services in the Town currently, but can get this out fairly quickly.

Felicia Penn asks about the Eversource situation? Nothing definitive yet? Who is responsible? This is of up most importance due to the electrical fires that have occurred, need letter to confirm they are responsible. Need a letter/documentation who is responsible.

Attorney Michael Schulz states that he has spoken to the Town Attorney, Ruth Weil and she had called him and said that Eversource had recognized their responsibility and would be doing the trimming and maintenance of the poles on Berry Hollow Drive, they will be out next week. The easement documents had become lost, but they did locate an easement that stated they owned the equipment and it was put in before the construction of Berry Hollow, poles are within the layout. He does need to work with the Legal Dept. in order to obtain written affirmation from Eversource. He doesn't think they will have a problem with this. (Exhibit H. Letter dated June 17, 2015, to Eversource from Atty Schulz).

David Munsell asks about Berry Hollow Road and where electric lines are located and also the road conditions here are very poor? Would like to see this issue finalized.

Attorney Schulz states that they will be addressing the areas noted in the Development Agreement and Cape and Islands report. Interesting/specific point; Conservation, DEP and the Planning Board had agreed back in the 1995 Development Agreement, no pavement along that portion fronted along the cranberry bog to be sloped away from bog and graveled. Between 2004 and present signed off, paved and maintained by residents, but not technically in conformance. Poles are located within the layout.

Attorney Schulz clarifies that his client, the Developer is bound by covenant with the Town to complete these issues. They are willing to reach out to the homeowners, but this is between the Town and the Developer.

Ray Lang questions where Berry Hollow Drive/Lane has gravel and has pavement on the roadway. Asks when the project would be done, 2015?

Attorney Schulz clarifies where the pavement begins and ends and where the hill is. He expects to be done in 2015.

Chair Paul Curley asks when would it be best to review progress/get a status report. Peer review?

JoAnne Buntich clarifies that there is only one meeting in September.

Felicia Penn makes reference to a letter from Attorney Brian Wall dated/received today, June 22, 2015, Exhibit I. We need to deal with peer review. Request that any documents submitted by 3<sup>rd</sup> party is part of the public record. Request that staff make sure that people know what's come in and be responsive.



By not replacing the Engineer, Stephen Seymour since he has retired, is a step backwards. Growth Management was formed with an Engineer. Plans for drainage need to be going to peer review.

JoAnne Buntich states that peer review was provided to the Applicant as soon we have received it.

Attorney Ruth Weil, Town Attorney in attendance. She clarifies that the Developer has agreed to pay for peer review.

**Motion made by Felicia Penn to have Growth Management get peer review of the drainage and the Developer has agreed to pay for, seconded by Stephen Helman, so voted unanimously.**

**Motion made by Ray Lang to continue this discussion to Aug. 24<sup>th</sup>, 2015, seconded by Stephen Helman, so voted unanimously.**

**Definitive Plan Modification for Subdivision No. 350 Dillon Lane**

Review of Definitive Plan Modification application for Subdivision # 350 – Dillon Lane. The property is shown on Assessors Map 236, Parcel 014, Map 237, Parcels 039 and 040. The original subdivision approved in June of 1974 included 3 lots and the roadway layout for Dillon Lane. No changes to the lot lines are proposed. Applicant requests a reduction in pavement width; alignment off the centerline; drainage in easements; turning tee with easements rather than in circle; change to vertical curves of roadway; change of roadway name.

Planning Board to determine whether all necessary materials are submitted; peer review of technical submissions will be provided for a subsequent meeting.

**Chair Paul Curley entertains a motion to open the Public Hearing, moved by Stephen Helman, so voted unanimously.**

Attorney Paul Revere III in attendance. He gives a history of the last time they were before the Board.

Dan Ojala in attendance. He makes reference to the plan/rendering, Exhibit J. Proposal is to access the lot in the back. Two trees to be removed, the road way to be paved is basically a driveway. Drainage in, scenic rock wall. Elevating the area. Minor modification will also have to go to Mass DOT for approval. Save the rough rambling rock wall, intermittent. If under 5 lots, with approval we could put in a turning tee. Drainage upgraded to current standards. Notes show how the plan to be constructed. No variances being requested. May need water main changes. Optional driveway connection which could connect to new driveway, but this could eliminate one of the curb cuts.

Felicia Penn asks about the new driveway cut, the neighboring property has driveway that extends to Rte 6A, looks like directly adjacent to the flair of access to their lot, this is a concern.

Attorney Revere replies that the neighbors have not responded. Attorney Schulz contacted him recently.

There is no peer review at the moment. Some discrepancy whether we need consent of the neighbor to file this or not.

Chair Paul Curley states that this is definitely up for discussion. The owners involved all have to be on the application.

Attorney Revere hands out correspondence dated today, June 22, 2015, Exhibit K. He gives a history of the family/ownership and easement information. See Exhibit K (12 pgs.). Quotes from Exhibit K: *Hahn v. Planning Board of Stoughton*, 24 Mass. App. Ct. 553, 555 (1987) (“the planning board is not authorized to determine the existence of easements or to settle other property disputes”). He does not think that the Planning Board can make decision on property rights.

Attorney Albert Schulz in attendance, representing John J. Dillon. He hands out material to the Board, documents/exhibits 1-5, Exhibit L.



He states that the applicant has no easement rights on Dillon Lane. There is no easement here. He refers to the plan, document 1 of Exhibit L.

Reference is made to Art Traczyk's Background Report, submitted February 9, 2015, Exhibit M. The applicant has failed to secure all necessary rights to make improvements within Dillon Lane. There is not sufficient evidence. The two families had proposed to combine properties and create the subdivision but only one filed the application and the definitive plan only has two lots.

Chair Paul Curley directs to the Town Attorney Ruth Weil as to where they think this sits? May need time to resolve.

Town Attorney Ruth Weil answers that she would like to know what the specific issues are that need to be addressed. She has just received information from the Attorney's involved and would need some time to review the information.

Stephen Helman suggests waiting for a legal opinion from the Town Attorney's Office.

Felicia Penn comments that back in 1974 not all parties applied for initial subdivision. This seems to be the real issue, problem today. If Quinns came in and all applied together we wouldn't be having a problem. Would like clarification as to what needs to be addressed.

Ray Lang refers to Exhibit L, document 1, plan of April 1974, would a formal plan give a formal right that would occur/ownership to person who submitted the plan.

Attorney Schulz replies that it would not grant any property/easement rights by which the applicant didn't own.

JoAnne Buntich explains the 90 day timeframe in which to act on this application and the need for an extension from the Applicant.

Attorney Revere replies that he does not have authority to extend this without his client's approval. He will speak with him.

**Motion entertained by Chair Paul Curley to continue to July 13, 2015, moved by Stephen Helman, seconded by Ray Lang, so voted unanimously to continue.**

**Motion entertained by Chair Paul Curley for an opinion from the Legal Dept., regarding clarification of the application requirements, moved by Stephen Helman, seconded by Felicia Penn, so voted unanimously.**

**Special Permit No. 2015-003 – Wayne Kurker, Trustee – 232 Main Street, Hyannis**

*Public hearing scheduled to be opened on June 22, 2015.*

Wayne Kurker, Trustee of 232 Main Street Realty Trust seeks a Special Permit pursuant to Section 240-24.1.3.HVB, Hyannis Village Business District, (B) Special Permits, (1) Parking facilities, to allow for 94 paid public parking spaces to be utilized within the existing parking lot at 232 Main Street, Hyannis. The subject property is addressed 232 Main Street, Hyannis, MA and is shown on Assessor's Map 327 as Parcel 160. Property is located in the HVB - Hyannis Village Business District with a portion of the property located in the WP Wellhead Protection Overlay District.

**Motion made by Ray Lang to open the Public Hearing, seconded by Felicia Penn, so voted unanimously.**

Attorney Michael Ford in attendance. He gives an explanation/history of the application, makes reference to the plan, Exhibit N, as submitted to Site Plan. Bank of Cape Cod is located here currently, with parking.



There is an excess of 90 spaces that are unused here. Seeking to allow up to 85 paid public parking spaces. Bank's spaces will be marked off/employees and for Hyannis Marina. A kiosk will service the paid parking spaces. Parking, open air facility, this would be a third principal use on the site.

Requires approval of Site Plan review staff, to approve administratively per a revised plan to be approved by the Building Commissioner.

Requires three separate approvals: Site Plan Review done last week, voted to approve administratively, contingent upon a revised plan. It does meet approval of Site Plan Review with the revised plan.

Second approval is Planning Board as SPGA in the HVB District.

Third approval is that parking lots require a license which is granted by the Town Manager, not under jurisdiction with the Licensing Board. Application has been made with Town Manager to be heard on July 1<sup>st</sup>. Both Site Plan and Planning Board are conditions preceding the licensing.

Reference made to Staff Report, pg. 3, 2<sup>nd</sup> bullet, Exhibit O;

2<sup>nd</sup> bullet: Four parallel spaces along the western property line are not currently striped. These spaces would abut a vacant, paved area on the adjoining lot....

Wayne Kurker in attendance. Reference to the Site Plan, Exhibit N. Attorney Ford explains that they are not seeking to use these for paid spaces, they are off the plan and have been eliminated, the new plan shows a 10 ft. wide landscape buffer now. The required buffer is 6 ft. If special permit granted they would ask for a condition to file a revised plan and show the 6 ft. buffer.

3<sup>rd</sup> bullet: Eight spaces on the west side of the building are located behind dumpsters....

The pavement is compromised, spaces proposed where there are loading doors used by Hyannis Marina. Fire Dept and Site Plan questioned this. These are used between Oct./May, seasonal use. This would be a condition as well, eight spaces. Also underground tanks here from the old Colonial Candle factory from years ago, these will need to be removed, to remove the tanks he would have to remove the paraffin wax in them as well. This could be done in the off season, he could remove these tanks, and in the meantime, temporarily put down some gravel in this area.

4<sup>th</sup> bullet: Eight spaces on the east side of the building are located in front of an overhead door and in front of building entrance...

Discussed with Site Plan/Fire Dept. and suggest making this a condition not to utilize these spaces. Four parallel spaces eliminated, the other spaces near door on east and west not be utilized when doors are being accessed/in use.

Also five spaces not to be used to the North of these four parallel spaces. This area will be landscaped reducing the total of spaces to 85 now. No more than 85 for paid public parking.

Lighting and signage. Mr. Kurker hands out a Site Plan with lighting and signage indicated on the plan, Exhibit P.

Wayne Kurker in attendance. He explains where the kiosk would be placed, like the ones that are located on Ocean Street now. Signage would be changed to state public paid parking. He presents photos that he has taken of the parking in the lot and that the public seems to be adhering to signage regarding no parking in the spaces that are designated specifically for the bank and how full this parking lot gets, Exhibit Q, 2 pgs.

The existing lighting, reference to the Staff Report, Exhibit O. The front of the lot has poles already. No lighting on the east side. He would add lighting here for the public.



Wayne Kurker explains how the lot would be used. There would be designated "paid parking" signs so that the public would know. Place signs throughout the lot. No solicitation for parking. Backside to post sign that if public had problem, they could call a number to contact someone in the building (weekdays/weekends/evenings) Marina office would take that call.

Attorney Ford refers to Staff Report, pg. 4, Exhibit O, Required Special Permit Findings. Section 240-24.1.2(E) of the Hyannis Village Zoning District.

Also much of the DIP is not applicable, DIP is for buildings, not much for this use, open air parking lot. The development meets one or more of the special permit granting criteria established by Section 240-24.1(E):

(b) The development maintains or improves pedestrian access and outdoor public spaces

(d) The development eliminates or minimizes curb cuts and driveways on Rte 28 and Barnstable Rd. There will be no additional curb cuts for this.

The Board can make a finding on at least those two for granting of a special permit.

Felicia Penn states that this is already being used for free boat parking. Public has already found this out. The kiosk seems to be working on Ocean St. What other licensed lots exist in the area?

Attorney Ford replies that he is unaware and does not have that information.

JoAnne Buntich states that there are some, they could provide locations to the Board.

Felicia Penn states that this would be good information to have, landscaping, vegetation, would like to suggest that the 10 ft. remain to beautify the area would be appreciated. This is a welcoming area. We need to make parking more controlled and organized. We need the parking. No intensification of traffic here because public already parking here and this will be much improved with the lighting.

Patrick Princi asks about the fees. Would it be prorated hourly? Should be affordable to make this a public benefit to all.

Wayne Kurker answers that there would be a daily fee for in season and for off season. Any adjustments would have to go to Licensing Board.

Ray Lang comments that he also encourages beautification/landscaping here. Are the parking spaces standard size? Clarifies entries and striped parking designations. Security here? Bank in agreement?

Elizabeth Jenkins in attendance. She states that this has been determined to be in compliance, space size.

Wayne Kurker points out where the signage will be for entrance and exits. If he gets approved he would put cameras in the yard/lot. Bank is in agreement with this for security as well. Only fire hydrant striped.

David Munsell comments that this is a great use for this and asks how will the Bank use work?

Wayne Kurker answers that the bank has their own designated parking spaces, non-payment spaces.

Stephen Helman asks if they could demonstrate how the public would drive in and know if spots are available?

Wayne Kurker replies they would have to drive in the circle.

Chair Paul Curley asks if there is a net increase in the number of spaces provided?



Wayne Kurker answers no, they are not expanding at all, this is an existing lot. When the westerly side is vegetated, this will improve the area.

Ray Lang comments about the possibility of purchasing parking lots in the future.

Chair Paul Curley asks about enforcement of the lot?

Wayne Kurker states that they have currently been letting people park here without any enforcement. Local businesses have been parking here and that is ok with him. He's only had to tow abandon/or stolen cars. Not many.

Attorney Ford stated that this would have to be private enforcement of the lot on his own/Mr. Kurker.

JoAnne Buntich explains that this is the first time the Planning Board has done this type of Special Permit. Time limits for the kiosk need to be addressed, the plan of operation needs to be expanded and looked at because it will not be the Town enforcing this.

Wayne Kurker replies that he would be happy to make a plan for enforcement, he does have some employees that work 52 weeks a year, they can keep an eye on the parking lot, clean up trash etc.

Stephen Helman states that he would like to see an operational plan in writing of how this is going to work.

Patrick Princi states that whether or not people are paying is not the Planning Board's problem, this is the owner's issue, he thinks they can move forward tonight.

Attorney Ford states that this may be a licensing issue.

Ray Lang clarifies that we may have to state what the Planning Board does approve, i.e. define the max amount of cars to be parked and dimensions of parking .

Chair Paul Curley asks how many votes are needed to issue a Special Permit? There may be new members coming and we may have to do this over again.

JoAnne Buntich replies that you need 5 to approve, Mark Ferro could mullin in.

Patrick Princi interjects/thanks the Planning Board for the years of service that he has been here, he states that he is leaving the Planning Board and his vote may not count at this point.

Patrick Princi points out that the existing crosswalk should be highlighted/here for safety purposes.

Ray Lang states that number of spaces should be identified, lighting, and landscaping should be encouraged for special permit items.

David Munsell would like to see draft findings/conditions.

Felicia Penn states that Site Plan and Licensing will probably deal with most of the issues that this entails. She disagrees with the operational part of this. The existing lot on Ocean St. has a non kiosk pre paid system with no one there, no operations plan here. Monies collected. There is already a business model set up for parking with fees through the Town. There is a lot of unauthorized parking in many areas around the Docks/Ocean St. Maybe share/learn from this example/experience after this has been in existence for awhile.

Chair Paul Curley states that he thinks we need to address the enforcement issue for the operational plan. This is his concern. Something to refer to for future reference. To be included in the Findings/Conditions.



Chair Paul Curley asks for Public Comment.

Ron Bourgeois in attendance. He owns 15 buildings in the Town and 6 are within a quarter mile of this site. He thinks this is a positive thing, like to be on record that he is in support.

Elizabeth Wurfbain, of the Hyannis Main Street Business Improvement District (BID) in attendance. She is in support of this because it is an existing parking lot and he is beautifying the area, it could use some greenery. It does improve the East End of Main Street. It is a good opportunity.

Attorney Ford comments that to get this done this summer they will need a kiosk, which will need to be ordered. Asking if Board can take any sort of action tonight to move this along?

Ray Lang would like information from Site Plan Review.

Chair Paul Curley states that he would like to have approved findings and conditions in order to make a vote, which you would need 5 confirmatory votes.

Elizabeth Jenkins confirms that we do have a signed plan from the Building Commissioner, but not a signed off report.

Felicia Penn suggests possible draft findings being drafted by Staff tonight?

Attorney Ford hands out his written correspondence regarding Proposed Special Permit Findings Sec. 240-125 (C) and Sec. 240-24.1.2.E. to the Board members for review, Exhibit R.

**Motion entertained by Chair Paul Curley to continue this Public Hearing to July 13<sup>th</sup>, 2015, at 7:00 p.m., so moved by Stephen Helman, seconded by David Munsell, so voted unanimously to continue.**

**Motion made by Ray Lang to adjourn, seconded by Stephen Helman, so voted unanimously to adjourn.**

**Next Meeting:** Regularly Scheduled Meetings: July 13 and July 27, 2015 @ 7:00 PM.

The meeting adjourned at 10:19 p.m.

Respectfully Submitted



by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on January 25, 2016

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 #259 North Street Hyannis, MA – File - ANR Map/Par 308-073-002.
- Exhibit B** – Assessors Aerial photo – File – ANR 259 North Street, North St., LLP Map/Par 308-073-002
- Exhibit C** – Staff Report – 259 North Street, - File – ANR 308-073-002
- Exhibit D** – Subdivision #824 Preliminary Plan of Land in Marston Mills (Barnstable, MA) – File Pre Sub. No. 824 located off River Rd.
- Exhibit E** – Correspondence dated June 17, 2015 from Horsley Witten Group – File Pre-Sub. No. 824
- Exhibit F** - Email from Dan Ojala dated June 22, 2015, re Pre Sub. No. 824
- Exhibit G** – Photo of sight distance File No. Pre Sub No. 824 – off River Rd.
- Exhibit H** – Correspondence dated June 17, 2015, from Attorney Michael Schulz, attaching Exhibit documents, File – Sub. No. 454, Whistleberry
- Exhibit I** – Correspondence dated June 22, 2015, from Attorney Brian Wall File – Sub. No. 454, Whistleberry
- Exhibit J** – Subdivision #350 Plan of Land Quinn Lane, Barnstable Ma, May 1, 2015 – File No. Sub. 350 Dillon Lane
- Exhibit K** – Correspondence dated June 22, 2015, from Attorney Paul Revere, III File No. – Sub. No. 350 Dillon Lane, application for proposed modification to subdivision
- Exhibit L** – Exhibit Correspondence from Attorney Albert Schulz regarding File Sub. No. 350 Dillon Lane
- Exhibit M** – Background Report dated February 4, 2015 from Art Traczyk regarding File – Sub No. 350 Dillon Lane
- Exhibit N** – Site Plan prepared for 232 Main Street, Hyannis – File – Special Permit Application No. 2015-003 Kurker
- Exhibit O** – Staff Report for Special Permit No. 2015-003, Kurker, dated June 18, 2015
- Exhibit P** – Site Plan 232 Main Street Realty Trust, dated May 11, 2015, with highlighted markings – File – Special Permit No. 2015-003
- Exhibit Q** – Photographs (2) of parking lot re Special Permit No. 2015-003, 232 Main Street, Hyannis
- Exhibit R** - Correspondence from Attorney Michael Ford re Special permit Application No. 2015-003, 232 Main Street, Hyannis, Kurker, outline for Findings