



Town of Barnstable Planning Board

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Board Members

Stephen Helman – Chair Raymond Lang – Vice Chair David Munsell – Clerk Paul R. Curley Mark R. Ferro Holly Brockman-Johnson
John Norman – Town Council Liaison

Staff Support

Design/Regulatory Review Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable Planning Board Approved as Amended Minutes July 13, 2015

Paul Curley – Chairman	Present
Stephen Helman – Vice Chairman	Present
Raymond Lang	Present
David Munsell	Present
Mark Ferro	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's Discussion 7 – 7:20

Economic Development Commission Members - Zoning

Henry Farnham and Tom Geiler in attendance, both of the Town of Barnstable's Economic Development Commission.

Henry Farnham explains that the BDC started with a formation of a subcommittee regarding present business zoning. Some districts are causing some issues with businesses. Medical Services District for example – some property owners having vacancy issues, because of the restrictive zoning and are having a hard time getting tenants to occupy their property. It was Highway Business District before it became Medical Services. He makes reference to the handout, Comparison Table, Exhibit A.

Tom Geiler states that the area from Yarmouth Road to the Yarmouth Town line, Route 28, hasn't been able to attract any medical use tenants. See Exhibit B, map handed out at meeting. The area "Proposed MS/HG District." Growth Management has a potential solution that would allow the two districts to co-exist in this area. Medical services would continue, south of the area. The proposal would allow the rental of space when it's available. If non conforming bldg. you could put similar use, there has been difficulty as it exists now. This problem has been pointed out by people/property owners in this area.

JoAnne Buntich gives a history/background, this was last discussed back in 2008. Reference is made to Exhibit A and B, pointing out the comparisons. Possibly adding some of the Hyannis Gateway (HG) uses, adding more to make this area more useful/viable.

Ray Lang comments that he is familiar with this issue. The hospital wanted to increase their visibility in another area, gravel pit area. He thinks it's worth looking into their expansion efforts.

David Munsell clarifies/asks that most of the businesses in the area are small, which ones are having trouble renting? There are plans to do roadwork in the area and there is some non buildable areas.

Hank Farnham replies that they invited property owners to a meeting. They had two long term owners attend. This area is problematic with a lot of vacancies here. They had gotten a sense of urgency. They will include the hospital and get their input as well.

JoAnne Buntich offers to draft something and to keep this discussion going.

Chair Paul Curley states that the Planning Board itself is down a few members and that once they get more members they will appoint someone from the Board to work with them as well as Growth Management and Staff.

Approval Not Required Plans: Dillon Lane

Dan Ojala, from Downcape Engineering in attendance. He makes reference to the plan, Exhibit C. He gives a brief history and quotes from the NOTE on plan: *This plan has been prepared for the purpose of indicating proposed access to Lot 1 and Lot 2 pursuant to §801-12F. Both Lots will share a common access off Route 6A, Driveway to be constructed to at least the minimum standards required by the building commissioner prior to occupancy of any dwelling on Lot 2.* They are looking for an Approval Not Required endorsement (ANR). They will be withdrawing without prejudice the former Dillon Lane Subdivision modifications, Subdivision 350.

Ray Lang clarifies that this is a new plan?

Attorney Paul Revere III in attendance. He explains/clarifies that they may not technically withdraw the previous plan that was submitted for modification of Subdivision No. 350. This is an alternative access. They may have to ask for modification for the road, they will be coming through the existing curb cut.

Chair Paul Curley confirms that the minimum width on the easement is 20 ft.?

Dan Ojala answers yes, septic in this area. The existing wall will also remain unchanged. They will be consolidating curb cuts. It will be a shared driveway.

Ray Lang asks why is the right of way a variable width? What is the purpose of the curb? Any frontage that allows building?

Dan Ojala answers that there is no frontage to allow any building, this is a driveway easement with variable width. The flared area is to give options to make it look attractive. The easement goes to Lot 2, not an exclusive easement, it can be shared. The dominative is Lot 2 and subservient is Lot 1, easement will be over Lot 1 in favor of Lot 2.

Attorney Paul Revere III states that Lot 1 owns all the land, they can go anywhere. The intent is to have the driveway come in and to reconfigure the parking on Lot 1, which backs to Route 6A.

Dave Munsell recuses himself from this matter as he knows a party involved.

Chair Paul Curley asks/directs to Staff for confirmation that this plan meets requirements for an ANR?

JoAnne Buntich clarifies that yes it does, reference is made to the plan, Exhibit C. She didn't know about this provision until Dan Ojala pointed it out to her about a year ago. The Bldg. Commissioner will want the Fire Dept. to weigh in on access compliance.

Attorney Albert Schulz in attendance. He comments that this plan does not meet the requirements for an ANR endorsement per Section 801-3, this is a subdivision and secondly it doesn't meet the criteria for

frontage, it has no frontage. He reads from Section 801-3 of Subdivision Regulations: *A way shown on a plan previously approved and endorsed under the Subdivision Control Law which has been fully constructed in compliance with the Subdivision Rules and Regulations in effect at that time; or*

Section 12F doesn't do away with this requirement.

Reference is made to a previously submitted plan, Exhibit D. There was never any recording of reciprocal easements to use Dillon Lane, so frontage means legal frontage. He thinks it is misleading to endorse this plan, it doesn't meet the requirements. Chapter 801 is different than Chapter 41. He can record an easement but it is misleading to endorse as an ANR.

Attorney Paul Revere III replies we are asking for an ANR endorsement. This is not a zoning issue for the Planning Board.

Chair Paul Curley directs to Staff/JoAnne Buntich to clarify that this does meet the requirements for an ANR.

JoAnne Buntich replies that yes it does.

Motion made by Stephen Helman to endorse/approve this ANR plan, seconded by Mark Ferro, Ray Lang is opposed, David Munsell has recused himself. This needs four votes in the affirmative to pass, it does not pass.

Dan Ojala states they will wait for the 21 day constructive approval and then record.

Continued Public Hearing - Application to Modify Definitive Subdivision No. 350 – Dillon Lane

JoAnne Buntich asks about the time frame for the modification for Subdivision No. 350, there is a 135 day time frame in which to hear this matter, it was clocked on May 7, 2015, Sept. 18th would be the deadline.

Motion made to by Stephen Helman, seconded by Mark Ferro, so voted unanimously to continue to this Public Hearing to August 10, 2015, at 7:00 p.m.

Subdivisions:

Covenant Release and Certificate of Completion Request for Subdivision No. 753 - Cape Cod Aggregates, Wilkens Lane

Attorney Eliza Cox of Nutter McClennen & Fish in attendance, representing Cape Cod Hospital and Cape Cod Healthcare. Seeking release of a 1998 covenant on lots that are owned by Cape Cod Hospital off of Wilkens Lane (formerly Gonsalves Lane). They were part of 1989 Subdivision/Cape Cod Aggregates.

Wilkens Lane is now fully constructed. The Town's Engineering Dept. has reviewed and approved construction. There are two gates that cross over Wilkens Lane, one north of driveway and second gate where Wilkens Lane intersects with Kidds Hill Rd. If these gates are removed these portions of the road will be used as cut through, cut through traffic. They would like to keep the gates in place until future phase of construction completed here.

Reference is made to correspondence dated July 10, 2015, from Fire Chief Francis Pulsifer of Barnstable Fire Dept. confirming that this is acceptable, to keep the gates in place, Exhibit E.

Reference is made to drafts of Form G, Release of Covenant, Form S, Road Maintenance and Form M, Certificate of Completion for the Board's review, Exhibit F.

Ray Lang asks if there is another owner/other developers involved besides the Hospital?

Attorney Eliza Cox answers yes and refers to rendering of original subdivision plan 1998, Cape Cod Aggregates, Exhibit G. Perseverance LLC owns two undeveloped lots that do have legal access to Wilkens Lane.

Ray Lang asks where are the gates located? Is there any part of the private section of Wilkens Lane that would be frontage for the lots not owned by the Hospital?

Attorney Eliza Cox refers to As Built plan, Exhibit H, this shows where the gates are located. Reference is made to rendering of Subdivision plan, Exhibit G. Lot 3, has its frontage on Wilkens Lane, not developed yet, but this property owner could ask to have the gates removed when and if they develop this lot. They have the legal right to passage. This is not an issue in terms of the Board releasing covenant, this will be left to Site Plan Review and Staff when the time comes.

JoAnne Buntich clarifies, the subdivision that created the roadway did not include the Perserverance LLC lots, they were there and then the road was created and the Cape Cod Hospital property was divided off that. The Board needs to make sure the conditions of the subdivision have been fully met.

Ray Lang asks if Wilkens Lane is owned by the Hospital? Ambulance issues. Two gates, do they need both?

Attorney Eliza Cox answers yes, Hospital owns. Yes, need both gates, as is trying to prevent cut through traffic. This is for outpatient medical care, not being used for ambulances.

Stephen Helman clarifies that the obligation for the Planning Board is to make sure the Subdivision is completed.

JoAnne Buntich replies that ambulances/emergency services are not allowed at this site, none are planned either.

David Munsell comments that he is amazed at the work and approves this.

Motion made by Stephen Helman to approve the completion of the subdivision and are prepared to instruct the Chair to sign the Form G and Form M and are prepared to accept a signed and recorded Form S from the Cape Cod Hospital, seconded by Mark Ferro, so voted unanimously.

Special Permits:

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

Attorney Michael Ford in attendance along with Applicant Wayne Kurker. He gives a brief history and refers to the proposed Findings and Conditions, see Exhibit I. They have no issues with these.

Mark Ferro asks about short term parking. Will there be daily fees? Will this be primarily a ferry parking lot? Maybe a few parking spots for short term for the local businesses, is this doable? Can this be incorporated into the Conditions, maybe five percent.

Attorney Ford replies that there is nothing in the Conditions that prohibits this type of in and out parking. Mr. Kurker will be meeting with these local business people to discuss this short term parking need.

JoAnne Buntich interjects and clarifies that this is already allowed (shared parking in the Hyannis Village Business District) routinely in the zoning in this area. This wouldn't really be necessary in a special permit.

Stephen Helman asks about the eight parking spaces on the west side of the bldg. Condition No. 6 he's uncomfortable with the area and the use here. See revised proposed findings, Exhibit I.

Elizabeth Jenkins gives a review of this and the revisions made to the Conditions. Asking that these eight parking spaces shall not be used for short term parking.

Wayne Kurker explains that he thought this area may be ok to use, because this is a seasonal use/storage. The doors don't get used in the summer. They do not have a use for this bldg. in the summer.

Chair Paul Curley replies that this may not be appropriate. These 8 spaces will limit the use of the building.

Attorney Ford states that Site Plan wanted these spaces cornered off.

Stephen Helman reads into record: Proposed Findings (Revised). Exhibit I.

- Wayne Kurker, Trustee of 232 Main Street Realty Trust is seeking a Special Permit to allow for a short-term paid public parking lot to be operated 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. It is in the HVB-Hyannis Village Business District and a portion of the subject property is in the WP Wellhead Protection Overlay District.
- (1) The application falls within a category specifically excepted in the ordinance for grant of a special permit as the Applicant seeks a Special Permit under Section 240-24.13 HVB, Hyannis Village Business, (B) Special Permits, (1) Parking Facilities.
- (2) The plan has been reviewed and approved by the Site Plan Review Committee under an approval dated June 22, 2015.
- (3) After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or neighborhood affected nor be inconsistent with the Design and Infrastructure Plan and meets Sec.240-24.1.2E (1)(b) and (d) as the proposed parking facility use will be conducted within an existing parking lot which is currently underused, the parking will be within walking distance of the ferry terminals to the islands and Hyannis Harbor thereby obviating the need for vehicle shuttle service to the harbor and encouraging pedestrian access in this area, no new curb cuts will be created on Main Street, landscaping on site will be enhanced, and the parking will serve a present need for such in this area of the east end Hyannis.

Motion made by Stephen Helman to accept the Findings, seconded by Mark Ferro, so voted unanimously.

Ray Lang reads into record: Proposed Conditions. Exhibit I, Conditions 1 through 6:

- (1) This Special Permit shall be granted to 232 Main Street Realty Trust for the operation of a 77 – space self-service paid parking lot at 232 Main Street, Hyannis, MA.
- (2) The subject property shall be improved and the parking shall be located as shown on the plan entitled "Site Plan prepared for 232 Main Street Realty Trust" dated (last revised) June

24, 2015 as drawn by Braman Surveying and Associates, LLC, and as modified by this decision.

- (3) The parking lot shall be in compliance with the landscape requirements of Section 240-24.1.10, as applicable.
- (4) The parking operation shall be a self-service operation using a kiosk. There shall be no gate and no parking attendants or soliciting parking.
- (5) The twenty-four (24) parking spaces labeled on the plan as "bank parking" shall be designated for parking to serve the 5,500 sq. ft. tenant space. These spaces shall be signed accordingly.
- (6) The eight (8) parking spaces proposed immediately adjacent to the west side of the building shall not be used for short-term paid parking spaces.

David Munsell reads into record: Proposed Findings 7 through 12 (Revised). Exhibit I.

- (7) Operation of the parking lot shall be subject to approval of a license from the Town Manager's Office.
- (8) Lighting improvements shall be installed on the east side of the lot. Design specifications and a lighting plan shall be submitted to the Director of Growth Management Department for review and approval prior to commencement of the use.
- (9) The landscape buffer on the west property line shall be six feet in width and shall be improved with native, drought tolerant plantings.
- (10) The lot shall be in compliance with the Site Plan Review requirements, including minimum parking stall size, drive aisle widths, and fire lane striping.
- (11) The design and appearance of signage and other exterior improvements shall be subject to approval by the Hyannis Main Street Waterfront Historic District Commission.
- (12) This permit shall be recorded at the Barnstable County Registry of Deeds and copies submitted to the Planning Board and Building Division prior to commencement of the use.

Ray Lang would like to make a change to Condition No. 8 - to state "lighting plan shall be submitted to the Director of Growth Management Dept and to the Planning Board for review and approval prior to commencement of its use" (be filed)

Ray Lang would like to make a change/amendment to Condition No. 10/Not sure this condition can be put in because they don't have the Site Plan Review report to review.

Elizabeth Jenkins explains that the Planning Board did get this with the original packet. They do have approval from the Building Commissioner for Site Plan Review and the report as submitted and revised.

David Munsell asks about possibly amending the Condition No. 2 regarding Site Plan report?

Attorney Ford asks for/directs to Ray Lang - clarification for amending Condition No. 8? This would mean we would have to come back again before the Planning Board.

Ray Lang replies that he does not want to hold this up.

Chair Paul Curley suggests that maybe amend Condition No. 8 to be reworded to state that it be "filed".

Motion made by Ray Lang, seconded by Stephen Helman, to accept the Conditions as amended, and grant the Special Permit, so voted unanimously.

Chair Paul Curley entertains a Motion to close the Public Hearing, moved by Stephen Helman, seconded by Ray Lang, so voted unanimously.

Regulatory Agreement

Public Hearing - Regulatory Agreement Application No. 2015-001, Stationhouse Apartments, 30 Elm Avenue, Hyannis David S. Dumont, Trustee, Greenwood Sterling Real Estate Trust

Motion made by David Munsell, seconded by Stephen Helman, to open the Public Hearing, so voted unanimously.

Attorney Steven Pizzuti in attendance and the Applicant David Dumont also in attendance.

Attorney Pizzuti explains what Mr. Dumont would like to do with this property. Proposes to make these market rate apartments. This would support the infrastructure. There is .43 acres, 22 parking spaces, the exterior footprint will not change, the second floor will be removed and rebuilt, approximately 1500 sq. ft. to the bldg. Would like to construct nine (9) one (1) bedroom market rate units. Five (5) units allowed as of right currently. Mitigation would be the investment, \$400,000 cost to improve it. Building needs to be brought up to certain specification/building codes. The height of bldg. will be increased about 5 ft. They will need two pieces of relief; one from the Historic Review Regulation, section 112-3 which requires review for any structure 75 years or older. When renovations were done in 2001 it wasn't 75 years old at that time. Also seeking relief from Zoning Board of Appeals for density requirement section 240-24, 3a 1w, which would allow for the additional four (4) units. Reference is made to renderings of the existing structure, see Exhibit J.

Ray Lang clarifies that the parking is currently 22 spaces? Asks to see a plan/layout of the current parking, see Exhibit K.

David Dumont points out the parking and that the spaces are actually oversized per what the requirements are.

Ray Lang asks what the occupancy limit would be? Two (2) persons to each apartment for a total of eighteen (18)? Will parking be a problem/street parking?

Attorney Pizzuti answers yes, 18 people total (2 persons to an apartment). This current parking should definitely accommodate all and then some. They are envisioning traveling nurses and tenants of this type staying here.

David Munsell states that this is much needed in this area. This should be a viable good project.

Chair Paul Curley asks what kind of construction schedule will this be?

David Dumont replies that he would like to start construction in September, about 4 months of construction to complete.

Ray Lang directs to Staff and asks about granting for one year or two years? Length of the Regulatory Agreement? Are there any financing issues?

JoAnne Buntich answers that the Planning Board votes to recommend or not, the final say goes to Town Council, they have a public hearing and then it would go to the Town Manager. The Applicant is proposing two years.

Attorney Pizzuti states that his client has five hundred thousand (\$500,000) of his own for financing this project.

Motion made by Stephen Helman to recommend approval and forward onto Town Council, seconded by Mark Ferro, so voted unanimously.

Chair Paul Curley asks if there is any Public Comment. None.

Approval of Minutes: May 11, 2015.

Motion entertained by Chair Paul Curley to accept/approve the May 11, 2015, minutes, moved by Ray Lang, so voted unanimously to approve.

Nomination/Election of Officers

Chair Paul Curley nominates Stephen Helman as Chair, Ray Lang as Vice Chair and Davie Munsell as Clerk, Ray Lang moves that the nominations be closed, seconded by Mark Ferro, so voted unanimously. All are in favor of this nomination.


Stephen Helman looks forward to his new position and thanks Paul Curley for the nomination.

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

Future Meetings: Regularly Scheduled Meetings: July 27 and August 10, 2015 @ 7:00 PM.

The meeting adjourned at 8:42 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 – Comparison Table of MS and HG Districts – Economic Development Commission’s Discussion Item

Exhibit B – Map of zoning districts (MS/HG areas) – Economic Development Commission’s Discussion Item

Exhibit C – Plan of Land ANR – 2159 Route 6A/re Dillon Lane Sub. No. 350 – File – ANR Thomas & Danute Quinn & Dillon

Exhibit D - 1974 Subdivision Plan of Land (colored in 2 pgs.) – Sub. No. 350 – File - Quinn & Dillon ANR

Exhibit E - Email dated July 10, 2015, from Fire Chief Frank Pulsifer – File Sub No. 753/completion Wilkens Lane (Cape Cod Healthcare)

Exhibit F – Draft Forms G, S and M – File Sub No. 753/completion Wilkens Lane (Cape Cod Healthcare)

Exhibit G – Definitive Subdivision Plan dated Oct. 1998 (Cape Cod Aggregates) – File Sub. No. 753/completion Wilkens Lane (Cape Cod Healthcare)

Exhibit H - As-Built Rodway Plan and Profile dated February 22, 2013 – File – Sub. No. 753/completion Wilkens Lane (Cape Cod Healthcare)

Exhibit I – Draft Revised Proposed Findings and Conditions – File No. Special Permit No. 2015-003 232 Main St., Hyannis, Wayne Kurker

Exhibit J – Pictures of existing building – File –Regulatory Agreement 2015-001 Stationhouse Apartments, 30 Elm St., David S. Dumont, Greenwood Sterling Real Estate Trust

Exhibit K – Site Plan of Existing Landscape Conditions –File – Regulatory Agreement 2015-001 Stationhouse Apartments, 30 Elm St., David S. Dumont, Greenwood Sterling Real Estate Trust