

**Town of Barnstable**  
**Zoning Board of Appeals**  
**Agenda**  
**August 5, 2009**

All hearings are scheduled for 7:00 P.M.  
Draft as of 07-28-09

**Approval of minutes from: May 6, 2009, May 20, 2009 & June 10, 2009**

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**Appeal No. 2009-025 - Continued**

**EAC Disposal, Inc.**  
**Modification of Variance No. 1996-14**

Opened April 1, 2009, continued, May 20, 2009 and to August 5, 2009.

This Appeal was continued at the request of the applicant to allow for further plan review and update, as well as additional information. Staff anticipates that no action will be taken on this application other than a continuation of it to the hearing of September 23, 2009.

Members Assigned: William H. Newton, Michael T. Hersey, Alex Rodolakis, Brian Florence, Laura F. Shufelt - Associates Members Present: Nikolas J. Atsalis, George T. Zevitas

EAC Disposal, Inc., d/b/a Cape Resources Company has applied for a Modification of Variance No. 1996-14. The modification is sought to allow for revisions to the site that include a new wood processor and staging area, alteration to interior site circulation, and additions and alterations to screening berms and landscape. The property is addressed 280 Old Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 100 as parcel 008. The lot is in a Residence F Zoning District.

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**Appeal No. 2009-041 - New**

**Waldron/Northeast Marketing Group**  
**Appeal of the Building Commissioner**

Timothy J. Waldron, Trustee of Northeast Marketing Group Realty Trust has appealed the May 19, 2009 decision of the Building Commissioner that the subject property, 1330 Phinney's Lane, Hyannis, MA, does not have the zoning benefits of the Medical Services Overlay District (MSOD) as it is zoned Residence F-1. The appellant had requested the Board confirm that its property is included within the Medical Services Overlay District and that it is located within its boundaries and subject to, and benefited by, the provisions of that overlay district. The property is addressed as 1330 Phinney's Lane, Hyannis, MA. It is shown on Assessor's Map 274 as parcel 016/X02. It is in a Residence F-1 Zoning District.

**Appeal No. 2009-045 - New**

**Waldron/Northeast Marketing Group**  
**Modification of Use Variance No. 1995-109**

Timothy J. Waldron, Trustee of Northeast Marketing Group Realty Trust has petitioned for a modification of Condition No. 2 of Use Variance No. 1995-109. The petitioner is requesting that Condition No. 2 be changed to include the use of the building for medical offices (including, without limitation, offices for physical therapy and chiropractic services) and/or dental offices as allowed for in Medical Services Overlay District (MSOD). The property is addressed as 1330 Phinney's Lane, Hyannis, MA. It is shown on Assessor's Map 274 as parcel 016/X02. It is in a Residence F-1 Zoning District.

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**Appeal No. 2009-043 - New**

**Stuborn Limited Partnership  
Appeal of the Building Commissioner**

Stuborn Limited Partnership has appealed the May 28, 2009 decision of the Building Commissioner pursuant to Section 240-125(B)(1)(a), Appeals from Administrative Official. The appellant is appealing that decision from the Building Commissioner that stated the residential use of the property could not be reestablished as-of-right as that residential use has been discontinued for more than three years. The appellant is appealing that decision on the basis that the Commissioner had no authority to issue the decision and if the Commissioner had the authority that the Board overrule the decision and reverse it. The property is addressed 153 Freezer Road, Barnstable, MA. It is shown on Assessor's Map 301 as parcel 006. It is in a Marine Business-B Zoning District.

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**Comprehensive Permit No. 2005-013 - Continued    Mill Pond Estates  
Modify House Designs & Allow Model Unit**

Opened June 10, 2009, continued June 17, 2009, July 22, 2009, and to August 5, 2009  
No Members Assigned - No Testimony Taken

Mill Pond Osterville Associates LLC, has requested a modification of Comprehensive Permit No. 2005-013 issued pursuant to MGL Chapter 40B for the development of 11 single-family dwellings. The modifications seek to change the design of the homes authorized for the development and permission to build one model home for the purposes of marketing the development. The property is addressed as 459 and 449 Old Mill Road, Osterville, MA and is shown on Assessor's Map 166 as parcel 001 and on Assessor's Map 143 as parcel 040. It is in a Residence C Zoning District.

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