



Zoning Board of Appeals Meeting Packet

November 9, 2011

A public hearing on the following appeals will be held on November 9, 2011 at 7 p.m. in the Town Hall Hearing Room, 367 Main Street, Hyannis.

The materials included in this electronic posting are not representative of all items included in the public record. Complete public records are available for viewing at 200 Main Street, Hyannis from 8:30 a.m. to 4:30 p.m. Monday through Friday.



**Town of Barnstable
Zoning Board of Appeals
Agenda
November 9, 2011**

The following hearing will be held at Barnstable Town Hall, 367 Main Street, Hyannis, MA, Hearing Room, 2nd Floor.
Meeting notice previously filed with Town Clerk

Introduction of Board Members

7:00 PM Appeal No. 2009-025 - Continued

**EAC Disposal, Inc. d/b/a
Cape Resources Company
Modification of Variance No. 1996-14**

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. Appeal No. 2009-025 has been amended to include a request that Condition Number 28 in Variance No. 1996-14, requiring that the variance expire on December 31, 2015, be deleted. The Applicant requests the modification of such other conditions and terms contained within Variance No. 1996-14 as may be required to effectuate the intent of the new proposed plan submitted with the application and the terms of any decision to be rendered by the Zoning Board of Appeals. The subject 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.

Opened April 1, 2009, continued, May 20, 2009, August 5, 2009, September 23, 2009, November 4, 2009 December 9, 2009, February 10, 2010, moved to February 24, 2010, April 14, 2010, May 26, 2010, July 14, 2010, August 11, 2010, September 15, 2010, October 27, 2010, December 1, 2010, February 2, 2011., March 9, 2011, April 13, 2011, May 11, 2011, June 8, 2011, June 22, 2011, July 27, 2011, September 14, 2011 and November 9, 2011

Board Members Assigned: William H. Newton, George T. Zevitas, Brian Florence, Alex M. Rodolakis, Laura F. Shufelt

Decision Due: September 15, 2011 With Extension: November 14, 2011

7:00 PM Appeal No. 2011-044 - Continued

**262 Bridge Street Realty Trust
MBRIDGE 274 LLC**

262 Bridge Street Realty Trust and MBRIDGE 274 LLC have applied for a Variance to Section 240-36(D) *Resource Protection Overlay District* (RPOD) to modify the shape of Lot 1B as shown on the plan recorded in Plan Book 546 Page 26 and Lots 2 and 3 as shown on Plan Book 546 Page 25. Relief is required as the lots do not conform to the two-acre minimum lot area requirement of the RPOD. The Applicants seek to modify the shape of the lots, but the area of each lot will not change. Further, the Applicants seek relief from Section 240-36(D) to demolish and rebuild the single-family dwelling currently located on Lot 1B. As a result of the recombination of the lots proposed above, the dwelling to be rebuilt will no longer be located on the same lot that existed prior to the adoption of the RPOD. Relief is requested for the reconstruction of the dwelling on a newly created lot less than two acres in area. The subject properties are addressed 274 Bridge Street and 262 Bridge Street, Osterville, MA and shown on Assessor's Map 093 as Parcels 021-001 and 021-002. These addresses encompass all lots that are the subject of the application, but note that all lots are not currently assigned individual addresses. All lots are in a Residential F-1 Zoning District.

Opened October 5, 2011. Continued to November 9, 2011. No board members assigned. No testimony taken.

Decision Due: December 11, 2011

Howard L. Sarty, II has petitioned for a Special Permit in accordance with Section 240-92 B – Buildings or Structures used as Single or Two Family Residences. The petitioner is proposing to construct a garage addition within the required 10 foot side yard setback. The Petitioner also requests to add a second story with a gross floor area of 1,944 square feet to the main dwelling, which does not currently comply with side yard setback requirements. The property is located at 22 Studley Road, Hyannis, MA as shown on Assessor's Map 306 as parcel 019. It is in a Residence B zoning district.

Opened October 12, 2011, Continued to November 9, 2011

Decision Due: January 10, 2012

Members assigned: Alex Rodolakis, George Zevitas, William Newton, Laura Shufelt

7:00 PM**Appeal No. 2011-051 - New****The Tarkinow Group LTD., as managers for
First Hyannis Realty LLC.**

The Tarkinow Group Limited, as managers for First Hyannis Realty, LLC., have petitioned for a Special Permit pursuant to §240-56 *Schedule of Off-Street Parking Requirements* and §240-57 *Circumstances Warranting Reduction of Requirements*. The Petitioner proposes to build an approximately 19,438 square foot addition to the existing 67,179 square foot BJ's Wholesale Club in Hyannis. Prior to the addition, the Zoning Ordinance required 346 parking spaces; 351 are currently provided. With the addition, the Zoning Ordinance requires 444 parking spaces and the Petitioner is proposing to keep the number of parking spaces provided at 351. The property is addressed 420 Attucks Lane, Hyannis, MA, as shown on Assessor's Map 274 as Parcel 040-001. It is in the B Business, Residence G, and Industrial District.

Decision Due: February 7, 2011

7:00 PM**Appeal No. 2011-052 - New****Michael W. Thomas**

Michael W. Thomas has petitioned for a Special Permit pursuant to Section 240-47.1(A)(3) *Family Apartments* for a family apartment greater than 800 square feet. The Petitioner has obtained permits to construct a 710 square foot family apartment attached to the primary dwelling. The Petitioner seeks to finish a 487 square foot basement area for use in conjunction with the apartment. The resulting apartment will have a total finished area of 1,197 square feet. The subject property is located at 12 Duncan Lane, Centerville, MA, 02632, as shown on Assessor's Map 147 as Parcel 025. It is in the Residence C Zoning District.

Decision Due: February 7, 2012

Open**Chair's Discussion**

Upcoming Meetings:

December

14

Town of Barnstable

Growth Management Department

Jo Anne Miller Buntich, Director

Staff Report – REVISED AND REISSUED

Appeal No. 2011-044 – MBRIDGE 274 LLC and Bridge Street Realty Trust

Part A: Variance – Section 240-36 RPOD – Equal Exchange of Area

Part B: Variance – Section 240-36 RPOD – Demo/Rebuild on New Lot

To allow an equal exchange of area between three developed pre-existing non-conforming lots
To allow demolition and rebuilding of a dwelling on a new reconfigured lot

Date: November 2, 2011
To: **Zoning Board of Appeals**
From: Elizabeth Jenkins, Principal Planner

Petitioners: MBRIDGE 274 LLC and 262 Bridge Street Realty Trust
Property Address: 262 and 274 Bridge Street, Osterville
Assessor's Map/Parcel: Map 093 Parcels 021-001 and 021-002
Lots: Plan Book 546 Page 25 – Lots 2 and 3
Plan Book 546 Page 26 – Lot 1B
Zoning: Residence F-1 Zoning and Resource Protection Overlay Districts

Filed: September 2, 2011

Hearing: October 5, 2011, November 9, 2011

Decision: December 11, 2011

Copy of Public Notice

262 Bridge Street Realty Trust and MBRIDGE 274 LLC have applied for a Variance to Section 240-36(D) *Resource Protection Overlay District* (RPOD) to modify the shape of Lot 1B as shown on the plan recorded in Plan Book 546 Page 26 and Lots 2 and 3 as shown on Plan Book 546 Page 25. Relief is required as the lots do not conform to the two-acre minimum lot area requirement of the RPOD. The Applicants seek to modify the shape of the lots, but the area of each lot will not change. Further, the Applicants seek relief from Section 240-36(D) to demolish and rebuild the single-family dwelling currently located on Lot 1B. As a result of the recombination of the lots proposed above, the dwelling to be rebuilt will no longer be located on the same lot that existed prior to the adoption of the RPOD. Relief is requested for the reconstruction of the dwelling on a newly created lot less than two acres in area. The subject properties are addressed 274 Bridge Street and 262 Bridge Street, Osterville, MA and shown on Assessor's Map 093 as Parcels 021-001 and 021-002. These addresses encompass all lots that are the subject of the application, but note that all lots are not currently assigned individual addresses. All lots are in a Residential F-1 Zoning District.

PART A: Relief Requested - Proposed Property Transfer

In appeal 2011-044, 262 Bridge Street Realty Trust and MBRIDGE 274 LLC have applied for a variance from the two-acre minimum lot requirement of the RPOD to reconfigure the boundaries between three lots. Two of the subject lots are owned by 262 Bridge Street Realty Trust, and one by MBRIDGE 274 LLC. It appears that the two lots held by 262 Bridge Street Realty Trust (shown as Lots 2 and 3 on Plan Book 546, Page 26) are controlled under the same deed.¹

¹ Lot 4, also shown on Plan Book 546, Page 26, and appearing on the draft ANR Plan, is not the subject of this Application. This lot, however, is also controlled under the same deed and in common ownership with Lots 2 and 3.

Relief is sought from Section 240-91.G *Resource Protection Overlay District (RPOD)*. Lots created and recorded in the overlay district after November 2000 must contain a minimum of 2 acres of upland. According to the plan submitted by the Applicant:

- Lot 1B has 1.89 acres of upland, but it is not contiguous, as required by Section 240-7 (E).
- Lot 2 has 3.64 acres of upland, and conforms to the lot area requirement of the RPOD.
- Lot 3 contains only 1.14 acres of upland.

The subject lots were created by two separate ANR Plans, both recorded in 1998.² All three of the lots in question pre-date the creation of the RPOD and conform to the area and frontage requirements of the RF-1 District. Each lot is developed with a structure.

The proposed property transfer will result in two new lots that do not conform with the minimum lot area requirements in the district. The transfer will not result in a change in the total lot area for any of the lots. The proposed lot configuration will be executed as shown on the draft ANR Plan submitted by the Applicant. The following table outlines the proposed transfer. All property to be transferred consists of upland.

Existing (acres)	Transfer Out (sq.ft)	Transfer In (sq.ft)	Maintains
Lot 1B 1.89 upland (not contiguous) 1.86 wetland 3.75 total	1C - 1210.8 sq.ft Total Property Transferred = 1210.8 sq.ft	2C - 1202.5 sq.ft 3B - 8.3 sq.ft	Lot 1D - 162043.2 sq.ft
Lot 2 3.64 upland 3.37 wetland 7.01 total	2B - 921.8 2C - 1202.5 Total Property Transferred = 2124.3 sq.ft	1C - 1210.8 sq.ft 3C - 913.5 sq.ft	Lot 2D - 303,163 sq.ft
Lot 3 1.14 upland 1.14 total	3B - 8.3 3C - 913.5 Total Property Transferred = 921.8 sq.ft	2B - 921.8 sq.ft	Lot 3D - 48,885 sq.ft

PART B: Relief Requested - Proposed Demolition and Rebuilding

The request for relief indicates that MBRIDGE 274 LLC proposes to demolish the existing structure on Lot 1B and rebuild a new dwelling. The provisions for demolishing and rebuilding structures on undersized lots as-of-right (Section 240-91(H)) require that the subject lot to have been legally created prior to the date of the adoption of the zoning ordinance that made the lot undersized. By reconfiguring the lots and recording a new ANR plan, the applicant no longer has a lot that was created in conformance with the zoning requirements. Thus, the applicant has requested further relief from the RPOD to demolish and rebuild a dwelling on a lot that did not exist prior to the adoption of the 2-acre minimum lot size.

The Board may wish to note that Harvey Beker is the sole member of MBRIDGE 274, LLC. Harvey and Jayne Beker own the adjacent lot to the west. The Beker's utilize the home on existing Lot 1B as a guest cottage.

The proposed demolition and rebuilding is under the jurisdiction of the Conservation Commission because of its proximity to wetlands. The Conservation Commission issued an Order of Conditions for the proposed new dwelling on October 11, 2011.

² Lots 2 and 3 are shown in Plan Book 546 Page 26. Lot 1B is shown in Plan Book 546 Page 25.

Staff Comments

- The Applicant has requested relief from the RPOD for the stated purpose of changing the shape of the three subject lots. The Applicant has indicated that the purpose of realigning the boundary of Lot 1B (existing) was to accommodate a demolition/rebuild of the dwelling. The land area gained by the equal exchange would allow for the new dwelling to be sited to maximize views of the bay and to have an increase setback from wetlands. There appear to be shape and topography conditions that support this variance request.
- Upon further review of the application, there is a question as to whether existing Lot 3, owned by 272 Bridge Street Realty Trust, is presently in conformance with the zoning requirements. Lot 3 was created by an ANR Plan recorded in 1998 (see Plan Book 546, Page 25). The Assessor's database does not contain information about the structure located on Lot 3. The Applicant has indicated that the structure on Lot 3 is a barn that is used in conjunction with the long-standing practice of aquaculture on Lot 2; furthermore, the barn houses lawn and garden equipment used to maintain the grounds of Lot 2.³

When the Resource Protection Overlay District was adopted in 2000, the Code was amended to provide permanent grandfathering protection for conforming lots "for single- or two-family residential use" (Section 240-91G). This provision prevented the merger of lawful residential lots with less than two acres under common ownership when the increased lot area requirements of the RPOD went into effect.

If Lot 3 was not being used for single- or two-family residential use on November 16, 2000, it does not currently have grandfathering protection from the RPOD under Section 240-91(G). Because the lot has less than two acres and may not be protected from the lot size requirements of the RPOD, there is a question as to whether it has merged with one of the adjoining lots, assuming they are under common ownership.

Lots 1B and Lot 2, both single-family home lots, do not stand to gain additional rights or protections through grant of the requested equal exchange variance – essentially, the request is to allow those lots to retain their existing grandfathered status after the ANR is recorded. A variance to Lot 3, however, may provide the lot additional rights which it may not presently have – namely, protection from the 2 acre lot size requirement of the RPOD for a non-residential lot. The Applicant did not request this relief from the Board and the Board is not advised to grant relief that may implicitly grant such rights.

Furthermore, it appears that there may be other zoning violations present on Lot 3. Section 240-43 *Incidental and subordinate nature of accessory uses*, requires accessory uses or accessory buildings to be located on the same lot as the principal use it serves. Staff questions whether the Board can grant variance relief for a lot that is not presently in conformance with the zoning requirements.

- When Lots 2 and 3 were created by ANR Plan, there was a question as to whether Lot 2 was compliant with Code Section 240-7(D), which states that "lots shall not be created to a depth greater than two lots from the subject way." After review by staff and the Building Commissioner, the lot does not appear to be in violation of this section, as Lot 3 has frontage on Windrush Way and Lots 2 and 4 have frontage on Bridge Street.
- Lot 4 shown on the draft ANR plan is not the subject of this application. Lot 4 appears to be held in common ownership with Lots 2 and 3 and controlled under the same deed. Lot 4 is developed with a single-family residential dwelling.

³ The Application indicates that each lot is developed with a single-family dwelling. The Board may wish to have the Applicant clarify this for the record.

- Lots 2, 3, and 4 (Plan Book 546, Page 25) are not shown on the Barnstable Assessor's Maps as separate lots. The map shows a single nine-acre parcel. Staff is unsure why the lots are not depicted separately.
- The Building Division file does not contain permits for any of the structures on existing Lots 2, 3, or 4. Only tent permits were found in the file.
- The subject lots are located within the Board of Health Zone of Contribution to Saltwater Estuaries and are subject to §360-45 Protection of Saltwater Estuaries that limits nitrogen loading.

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 9, for granting a variance is a three-prong test. The applicant must substantiate those conditions that justify the granting of the relief being sought. The Zoning Board is required to make findings substantiating that each of the three statutory requirements has been met. The statutory requirements are:

- owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
- a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner, and
- desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

An application for a variance that has met all three requirements "does not confer ... any legal right to a variance." The Board still has the discretionary power to grant or not to grant the variance.

Proposed Conditions

Staff has not drafted proposed conditions at this time because of the need for public testimony and input from the Board.

Copies:	Petitioner/Applicant
Attachments:	Application
	Draft ANR Plan, CapeSurv, stamped 9/22/11
	Proposed Demo-Rebuild Plan – Conservation Commission
	Proposed Demo-Rebuild Elevations
	Description of proposed Demo/Rebuild – Conservation Commission
	Plan Book 546 Page 26 (Lots 2 & 3). Plan Book 546 Page 25 (Lot 1B).
	Deeds

Section 240-91(F). Merged lots.

Except as otherwise provided herein, lawfully nonconforming lots that are adjoining and held in common ownership, or under the control of the same owner, shall be treated so as to conform so far as possible with the minimum area requirement of the zoning district in which they are located. No lot so merged, or portion thereof, may be changed or transferred in any manner that will increase the degree of nonconformity unless a special permit has first been obtained from the Zoning Board of Appeals. No such special permit may create any additional buildable lot(s).

Section 240-91(G). Resource Protection Overlay District. [Amended 10-26-2000]

- (1) Any increase in area, frontage, width, yard or depth requirements of the Resource Protection Overlay District shall not apply to a lot for single- or two-family residential use which immediately prior to November 16, 2000, either:
 - (a) Conformed to the applicable bulk requirements of this chapter immediately prior to November 16, 2000:
or
 - (b) Immediately prior to (on the effective date of this chapter,) was protected from the applicable bulk requirements of this subsection by the provisions of § 240-91A, B, C, D, or E of this chapter.
- (2) This protection afforded by this subsection shall be permanent.

Section 240-91(H). Developed lot protection; demolition and rebuilding on nonconforming lots.

Preexisting legal nonconforming lots which have been improved by the construction of a single- or two-family residence which conformed to all provisions of the zoning ordinance or bylaw at the time of construction shall be entitled to completely demolish the old residence and construct thereon a new residence in accordance with the following...

Section 240-43. Incidental and subordinate nature of accessory uses.

Within the zoning districts established herein, accessory uses or accessory buildings are permitted, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves except as otherwise provided for herein.

BARNSTABLE
TOWN CLERK

TOWN OF BARNSTABLE
Zoning Board of Appeals

'11 SEP -2 P1:53

Application for a Variance

TOWN OF BARNSTABLE
Sept 02
2011 AUG 33 AM 5:45

Date Received:
Town Clerk's Office:

For office use only: WITH MANAGEMENT
Appeal # 2011-044
Hearing Date 10/12/11
Decision Due 12/11/11

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Applicant Name: MBRIDGE 274 LLC (Owner of lot 1B on Plan Book 546 pg 26) and 262 Bridge Street Realty Trust (Owner of lots 2 and 3 as shown on Plan Book 546 pg 25)

Phone: 508-430-1900

Applicant Address: C/O of Law Office of Michael Ford, 72 Main Street, Po Box 485, West Harwich, MA 02671

Property Location(s): 274 Bridge Street, Osterville, MA and 262 Bridge Street, Osterville, MA (which contain all lots listed in the narrative). These lots have not yet been updated on the Town Assessors database so we have provided recording information within the narrative for notice purposes.

(file reference BCRD Book 24983 Page 134)

Property Owner: MBRIDGE 274 LLC (Owner of lot 1B on Plan Book 546 pg 26) and 262 Bridge Street Realty Trust (Owner of lots 2 and 3 as shown on Plan Book 546 pg 25)

(file reference BCRD Book 9309 Page 256 for both lots)

Phone: 508-430-1900

Address of Owner: (MBRIDGE 274 LLC) 1270 Avenue Of Americas, New York, 10020 and (262 Bridge Street Realty Trust) 262 Bridge Street, Osterville, MA 02655

If applicant differs from owner, state nature of interest: 1

Same

Assessor's Map/Parcel Number: 093/021/001 & 093/021/002 Zoning District: RF-1

Number of Years Owned: (MBIRDGE) 1 year 9 months & (262 Bridge) 18+ years

Groundwater Overlay District: AP

Variance Requested: Applicant seeks a variance from the provisions of Section 240-36 (D) Resource Protection Overlay District (RPOD) of the Ordinance

See Narrative Attached

Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: See Narrative Attached

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? _____

Permit No.: _____

- 1 If the applicant differs from owner, the applicant will be required to submit one original notarized letter, copy of a proposed purchase & sales agreement or lease, or other documents with the application to prove standing and interest in the parcel or structure.

Application for a Variance - Page 2

Existing Level of Development of the Property (274 Bridge St) - Number of Buildings: 1

Present Use(s): Residential Dwelling Gross Floor Area: 6344 sq. ft.

Proposed Gross Floor Area to be Added: _____ sq. ft., Altered: _____ sq. ft.

Description of Construction Activity (if applicable): See narrative attached.

Attach additional sheet and plans if necessary

Site Plan Review (required to be completed prior to applying to the Zoning Board of Appeals):

Site Plan Review Number _____ Date Approved _____

☐ - Not Required - Single or Two Family use

Is the property located in a designated Historic District?..... Yes ☐ No ☐

If yes ☐ - Old King's Highway Regional Historic District

Date Approved (if applicable) _____

☐ - Hyannis Main Street Waterfront Historic District

Date Approved (if applicable) _____

Is the building a designated Historic Landmark?..... Yes ☐ No ☒

Have you applied for a building permit?..... Yes ☐ No ☐

Have you been refused a building permit? Yes ☐ No ☐

The following information must be submitted with the application at the time of filing.
Failure to do so may result in a denial of your request.

Three (3) copies of the completed **application form**, each with original signatures.

Three (3) copies of a **certified property survey** (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.

Three (3) copies of a **proposed site improvement plan** and one (1) reduced copy (8 1/2" x 11" or 11" x 17"), drawn by a certified professional and found approvable by the Site Plan Review Committee (if applicable). This plan must show the exact location of all proposed improvements and alterations on the land and to structures. See "Contents of Site Plan", Section 4-7.5 of the Zoning Ordinance, for detailed requirements.

The applicant may submit any **additional supporting documents** to assist the Board in making its determination.

Signature: _____ Date: _____
Applicant's or Representative's Signature

Representative's _____ Phone: _____

Address: _____ Fax No.: _____

Narrative

The applicants seek a variance from the provisions of Section 240-36 (D) Resource Protection Overlay District (RPOD) to change the configuration of lots 1B as shown on plan book 546, page 26 and lots 2 and 3 as shown on plan book 546, page 25. The lots all currently conform to the area requirements of the underlying RF1 Zoning District in that they all have excess of 43,560 sq ft of upland and further all three lots are improved with single family homes. The lots are non-conforming in that they are now located in the Resource Protection Overlay District (RPOD) which requires two acres of upland.

The applicants seek to modify the shape of each one of the three lots by dividing the parcels in such a fashion so that each lot when recombined will be left with the same lot area as currently exists. The recombinations are proposed as follows:

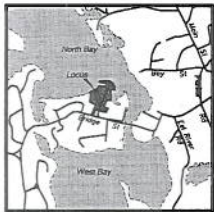
Lots 2C, 3B and 1D will be combined and contain the same area as the original lot 1B (3.75 acres), with a total of 1.89 acres of upland.

Lot 1C, 3C and 2D will be combined so as to contain the same area as the original lot 2 (7.1 acres) of which 3.64 acres is upland.

Lots 2B and 3D will be combined and have the same area as the original lot 3 (1.14 acres) all of which is upland.

Because the lots are located within the RPOD District, a variance is required to change the shape of the lots, even though they are all currently developed with single family homes, since the resulting lots will no longer be pre-existing.

Further, the Applicants seek variance relief, if required, to demolish and rebuild the existing single family dwelling currently located on lot 1B. As a result of the recombination of the lots set forth above, lot 1B will no longer be the same lot that existed prior to the adoption of the RPOD District. Accordingly, variance relief may be necessary for the reconstruction of the single family dwelling on the newly created lot which contains less than two acres of upland.



Location Map:
1:2,000

ASSESSORS REF.:

Map 983, Parcels 021001 & 021002

OVERLAY DISTRICT:

AP - Aquifer Protection District

ZONE:

AP-1 RPOD
Area (min.) 87,120 SF
Frontage (min.) 20'
Width (min.) 125'
Setbacks:
Front 30'
Side 15'
Rear 15'

FLOOD ZONE:

Zone A13(D=11)
Community Panel No.
#250001 0018 D
July 2, 1992

Area Summary:

Lots 2C, 3B, & 1D Combined

(Same As Original Lot 1B (PB 546/26))
82,123±SF = 1.88±AC Upland
80,948±SF = 1.86±AC Wetland
163,071±SF = 3.75±AC Total

Lots 1C, 3C, & 2D Combined

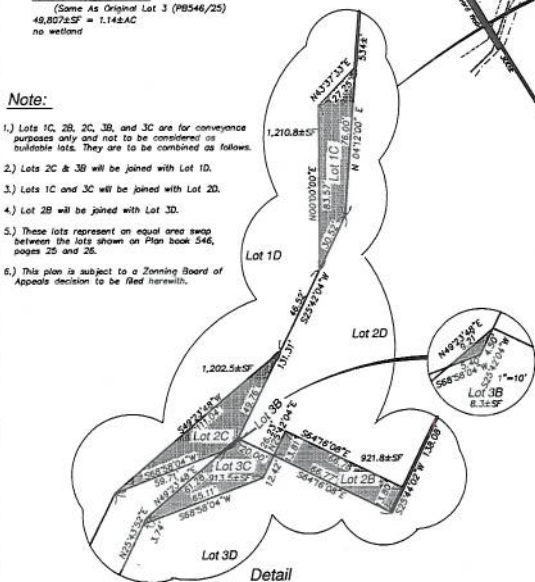
(Same As Original Lot 2 (PB 546/25))
158,620±SF = 3.64±AC Upland
146,687±SF = 3.37±AC Wetland
305,307±SF = 7.01±AC Total

Lots 2B & 3D Combined

(Same As Original Lot 3 (PB546/25))
49,807±SF = 1.14±AC
no wetland

Note:

- 1.) Lots 1C, 2B, 2C, 3B, and 3C are for conveyance purposes only and not to be considered as buildable lots. They are to be combined as follows.
- 2.) Lots 2C & 3B will be joined with Lot 1D.
- 3.) Lots 1C and 3C will be joined with Lot 2D.
- 4.) Lot 2B will be joined with Lot 3D.
- 5.) These lots represent an equal area swap between the lots shown on Plan book 546, pages 25 and 26.
- 6.) This plan is subject to a Zoning Board of Appeals decision to be filed herewith.



Detail
1"=30'

I certify that this plan has been prepared in conformity with the rules and regulations of the Registers of Deeds of the Commonwealth of Massachusetts.

Registered Land Surveyor

Date

Approval under the Subdivision Control Law is not required.

BARNSTABLE PLANNING BOARD

Date

No determination as to compliance with the Zoning Ordinance requirements has been made or intended by the above endorsement.

Title:
**Plan Of Land
At 274 Bridge Street In
Barnstable (Osterville) Mass**

PREPARED BY:

CapeSurv

7 Parker Road
Osterville MA 02655
(508) 430-3884 / 430-3895 fax

PREPARED FOR:

Harvey & Jayne Beker
4547 Livingston Ave
Bronx, NY 10471

Notes/Revision:

See Above

Date: June 7, 2011 1"=60'

Field: MHW/RL/RL
Comp.: MHW/RL
Draft: MHW/RL

Review: RL
Proj. # C-326.3
Drawing # C326_SANR



Sheet 1 of 1

Town of Barnstable
Growth Management Department
Jo Anne Miller Buntich, Director

Staff Report



Special Permit 2011-043 – Sarty

Section 240-92(B) – Expansion of a Preexisting Non-Conforming Residential Structure

To construct an attached garage and a second-story addition

Date: April 20, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner

Petitioner: Howard L. Sarty, II
Property Address: 22 Studley Road, Hyannis, MA
Assessor's Map/Parcel: Map 306 Parcel 019
Zoning: Residence B Zoning District

Filed: August 18, 2011

Hearing: October 12, 2011

Decision Due: January 10, 2012

Copy of Public Notice

Howard L. Sarty, II has petitioned for a Special Permit in accordance with Section 240-92 B – Buildings or Structures used as Single or Two Family Residences. The petitioner is proposing to construct a garage addition within the required 10 foot side yard setback. The Petitioner also requests to add a second story with a gross floor area of 1,944 square feet to the main dwelling, which does not currently comply with side yard setback requirements. The property is located at 22 Studley Road, Hyannis, MA as shown on Assessor's Map 306 as parcel 019. It is in a Residence B zoning district.

Background & Relief Requested

In appeal 2011-043, Howard L. Sarty, II requests a special permit to expand his residence by expanding an attached garage and adding a second story. The applicant is proposing to construct a 12 ft by 22 ft garage addition on the south side of the house, adjacent to the existing garage. Further, the applicant seeks to add a second story with a gross floor area of 1,944 sq.ft and total living area of 1,413 sq.ft.

According to the Assessor's record, the existing dwelling was constructed in 1955. It is a one-story, 3-bedroom ranch house with a gross square footage of 3,446 sq.ft and total living area of 1,552 sq.ft. The house does not conform to the 10 foot minimum side yard setback requirement in the RB District. The house is set back 5.1 feet at the closest point on the west side and 9.8 feet on the east side. The subject lot is located off of Ocean Avenue, near Sea Street Beach and has frontage on both Studley Road and Crocker Drive. The lot contains 7,500 sq.ft, as shown on a plan of land recorded in 1946.¹

Plans submitted by the applicant provide details of the proposed work. The plans show the proposed garage addition on the south side of the existing dwelling. The proposed garage would be located no closer to the side property line than the existing dwelling. The proposed setback would range from 5.8 feet to 6.1 feet from the western property line. The addition is in compliance with the 20 foot front yard setback required along Studley Road.

¹ Plan Book 74 Page 13, Lot 5.

The proposed second story expansion will increase the intensity of the preexisting setback non-conformity, and thus a special permit is required. The plans for the second story indicate that the addition will create two bedrooms and two bathrooms on the second floor of the house. It appears the proposed construction will eliminate a bedroom on the first floor, and the proposed house will have a total of four bedrooms. The plans also show an unfinished area on the second floor.

Currently, the house is served by a four-bedroom septic system. Public sanitary sewers are scheduled to be installed in this area as part of the Stewart's Creek water and sewer project. The Board may wish to limit the number of bedrooms in the house to four, unless the house is connected to sanitary sewer.

A deed to the property, recorded in Barnstable County Registry of Deeds Book 25544 Page 276, demonstrates the applicant's standing to make this application.

Staff Comment

- The surrounding neighborhood is characterized by a mix of modest cottage-style homes and larger dwellings. Additions and reconstruction appear to be common in the neighborhood. The immediately adjacent home to the east is 2 ½ stories in height and the home to the west made a second story expansion in 2009.

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C) that support:

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:

Section 240-92(B) of the Barnstable Zoning Ordinance allows for expansion of a preexisting nonconforming structure used as a single-family residence by special permit where the expansion intensifies the degree of the preexisting non-conformity and does not conform with the bulk regulations in the district.

- **Site Plan Review is not required for alteration or expansion of a single-family residential structure.**
- **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 the neighborhood affected.**

Section 240-92(B) further requires that the Board find:

- **That the proposed expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.**

Suggested Conditions

Should the Board find to grant the special permit, it may wish to consider the following conditions:

1. Special Permit 2011-043 is granted to Howard L. Sarty, II for the expansion of the preexisting nonconforming residential structure at 22 Studley Road, specifically for the construction of a 12' by 22' attached garage addition and a new second story with a gross floor area of 1,944 square feet.

2. The additions shall be constructed in substantial conformance with the plan entitled "Plot Plan of Land located at 22 Studley Road, Hyannis, MA" drawn and stamped by Yankee Survey Co, Inc. dated March 3, 2011, last revised July 21, 2011 and the elevations and floor plans entitled "Additions and Alterations, 22 Studley Road, Hyannis, MA" drawn and stamped by Bruce Devlin Design, dated July 2011.
3. The number of bedrooms on the property shall be limited to four, unless the property is connected to public sanitary sewer.
4. There shall be no further expansions or additions to the dwelling and no detached accessory structures shall be constructed on the property without further relief from this Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be located and conform to the required setbacks for the district and screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant

Attachments: Application
 Plan of Land located at 22 Studley Road, drawn and stamped by Yankee Land Survey Co, Inc., 7/21/2011
 Elevations and Floor Plans, drawn by Bruce Devlin Design, dated 7/2011
 Assessor's Record
 Aerial Photo (2008)
 Deed – Book 25544 Page 277

TOWN OF BARNSTABLE
Zoning Board of Appeals
Petition for a Special Permit

BARNSTABLE
TOWN CLERK

Date Received:
Town Clerk office

11 AUG 18 P1:16
For office use only
Appeal # 2011-043
Hearing Date: 10/12/11
Days Extended: _____
Decision Due: _____

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth:

Petitioner's Name: Howard L. Sarty, II, Phone: 508-775-5347

Petitioner's Address: P.O. Box 927, Sturbridge, MA 01566

Property Location: 22 Studley Road, a/k/a 3 Studley Road, Hyannis, MA 02601

Property Owner: Howard L. Sarty, II, Phone: 508-775-5347

Address of Owner: Same

If applicant differs from owner, state nature of interest:

Registry of Deeds/Land Court References: Deed Book 25544, Page 276, Plan:

Assessor's Map / Parcel Number: 306/019 Zoning District: Residential B

Number of Years Owned: 15 Groundwater Overlay District: AP

Special Permit Requested: Section 240-92 Nonconforming buildings or structures used as single and two-family residences.

Cite Section & Title from the Zoning Ordinance

Description of Activity / Reason for Request: Applicant is requesting a Special Permit to allow him to add an addition to his single-family residence. The addition will not increase the current encroachment into the sideyard setback requirements but it will be located within the 10 foot sideyard setback.

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit? No

Permit No.: _____

Description of Construction Activity (If Applicable): Applicant is proposing to add a 12' x 22' garage addition and to add a second story with a gross floor area of 1,944 square feet and a total living space of 1,413 square feet to include a master bedroom, bathroom, closet, add unfinished space.

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: One
Present Use(s): Single-Family residence

Existing Gross Floor Area: 3,446 sq. ft. Proposed New Gross Floor Area to be Added: 1,944 sq. ft.

Site Plan Review Number: N/A Date Approved: _____ (not Required for Single or Two Family Use)

Is the property located in a designated Historic District?	Yes []	No [X]
Is this proposal subject to the jurisdiction of the Conservation Commission	Yes []	No [X]
Is this proposal subject to approval by the Board of Health	Yes []	No [X]
Is the building a designated Historic Landmark?	Yes []	No [X]

Have you applied for a building permit?	Yes []	No [X]
Have you been refused a building permit?	Yes []	No [X]

The following Required information, as applicable to application, must be submitted with the application the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed **application form**, each with original signatures.
- Three (3) copies of a 'wet sealed' **certified property survey** (plot plan) and (1) reduced copy (8 ½" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and location of the existing improvements on the land.
- Three (3) copies of a **proposed site improvement plan**, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 ½" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit **any additional supporting documents** to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: John W. Kenney, Esq. Date: 8/18/11

Agent's Address: 12 Center Place
1550 Falmouth Road
Centerville, MA 02632
508-771-9300
Fax: 508-775-6029
e-mail: John@jwkesq.com

TOWN OF DAKENSTABLE

OCT -6 PM 4:11

MEMORANDUM

TO: Zoning Board of Appeals

FROM: John W. Kenney, Esq.

APPEAL NO.: 2011-043

HEARING DATE: October 12, 2011

APPLICANT: Howard L. Sarty, II

PROPERTY: 22 Studley Road, Hyannis, Massachusetts 02601

ASSESSOR'S MAP: Map 306, Parcel 019

LOT SIZE: 7,500 Sq. Ft. ±

ZONING DISTRICT: Residence B Residential District

GROUNDWATER
OVERLAY
DISTRICT: AP - Aquifer Protection Overlay District

RELIEF REQUESTED: Applicant is seeking a Special Permit pursuant to Section 240-92 B – Expansion Pre-existing - Non-Conforming Structure used as a Single-Family Residence

BACKGROUND

The subject property is located at 22 Studley Road, Hyannis, Massachusetts. A copy of the Town of Barnstable Assessor's Map showing the property is attached hereto as **Exhibit A** for your reference. It is shown on Map 306 as Parcel 019.

The Applicant, Howard L. Sarty, II, acquired title to locus by a deed dated June 28, 2011 and recorded on July 5, 2011 in Book 25544, Page 276 with the Barnstable County Registry of Deeds. A copy of the Deed is attached hereto as **Exhibit B** for your review.

ZONING BACKGROUND

The property is located in a Residence B Residential District. The current setback requirements in a RB Residential District require a twenty (20) foot front yard setback and ten (10) foot side and rear yard setbacks. The existing house meets the front and rear yard setbacks. It does not meet the side yard setback requirement. On the easterly sideline, the existing house is 9.8 feet from the property line. On the westerly sideline, the existing house is 5.1 feet from the property line at its nearest point. The proposed addition would also meet the front and rear yard setback requirements but not the side yard setback requirements. The nearest point of the proposed addition to the easterly side line would remain 9.8 feet. The nearest point of the proposed addition to the westerly sideline would be 5.8 feet. A copy of a Plot Plan prepared by Yankee Land Survey Co., Inc. showing the existing and proposed setbacks is attached herewith as **Exhibit C** for your review.

Section 240-92B of the Town of Barnstable Zoning Ordinance governs the alteration or expansion of nonconforming structures used as a single-family residence. Subsection 240-92 A(1) allows for expansion as of right provided that the "expansion does not in any way encroach into the setbacks in effect at the time of construction, provided that encroachment into a ten-foot rear or side yard setback...shall be deemed to create an intensification requiring a special permit under Subsection B". Since the Applicants existing structure and the proposed addition encroach into the ten foot side yard setbacks the Applicant must proceed under Section 240-92 B of the Zoning Ordinance.

Section 240-92B authorizes this Board to grant a Special Permit to allow for the expansion of a nonconforming structure used as a single-family residence provided you find that the proposed expansion "will not be substantially more detrimental to the neighborhood than the existing building or structure."

ARGUMENT

The Applicant is seeking a Special Permit pursuant to Section 240-92 B of the Town of Barnstable Zoning Ordinance to allow for the construction of a 12' x 22' garage addition

and to add a second story with a gross floor area of 1,944 square feet to the main dwelling.

The existing house located on the premises was built in 1955 according to the Town of Barnstable Assessor's records. If the applicant is allowed to proceed with the proposed project it will allow the applicant to update the house and to bring it into compliance with current building codes. Aesthetically, the new dwelling would be a substantial improvement in appearance over the existing dwelling. The style of the house is a traditional shingled Cape Cod home. The proposed size of the home is similar to the other homes in the neighborhood.

The existing dwelling has three bedrooms on the first floor. One first floor bedroom would be eliminated and two new bedrooms would be added to the second floor. Thus the proposed new dwelling would have four bedrooms. The existing house contains two bathrooms on the first floor. These would be combined into one bathroom. A bathroom would be added to the Master Bedroom on the second floor. Another bathroom on the second floor would be rough plumbed. The new house would therefore contain three bathrooms.

The existing structure and proposed structure each meet the 30' maximum height requirement. The use of the property remains a single-family residence. The use is consistent with the Zoning Ordinance of the Town of Barnstable and with the use of properties in the zoning district.

The property is serviced by municipal water. The property is currently served by an on-site septic system but will be connected to town sewer in the near future.

The proposed addition would bring the property into conformity with the other houses in the neighborhood.

CONCLUSION

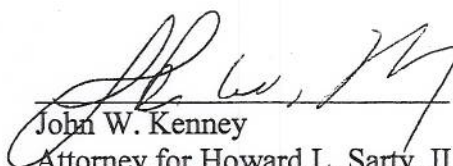
The proposed project is architecturally consistent with the character of the zoning district. If allowed to proceed, the building would be brought up to current building codes. The building would continue to comply with the maximum height requirement for this district.

The intensification of the use of the property would be minimal. The existing house has three bedrooms. The proposed house would have four bedrooms. The benefits of improved aesthetics and bringing the structure up to code clearly outweigh the minimal intensification the addition of one bedroom creates. The use as a single-family residence is consistent with the allowed uses for this zoning district.

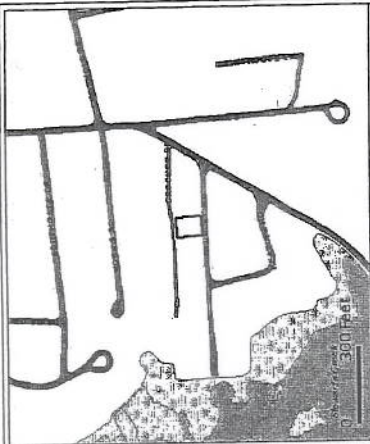
Based upon the foregoing, the proposed alteration and expansion would not be substantially more detrimental to the neighborhood than the existing building.

We respectfully request that you vote in favor of granting the applicants a Special Permit to allow them to proceed with the project.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John W. Kenney", is written over a horizontal line.

John W. Kenney
Attorney for Howard L. Sarty, II, Applicant
1550 Falmouth Road, Suite 12
Centerville, MA 02632
508-771-9300



LOCUS MAP

PLAN REF: 99/125
DEED REF: 4698-125
ASSESSOR'S MAP: 306-019
ZONING: RB
SETBACKS: 20'-10'-10'
FLOOD ZONE: C
PANEL NUMBER: 250001 0006 D
DATED: 07/02/1992
OVERLAY DIST: AP

PLOT PLAN OF LAND
LOCATED AT:
22 STUDLEY ROAD
HYANNIS, MA

PREPARED FOR:
MARK VOLLMER
MARCH 3, 2011

REV: JULY 21, 2011

REV: AUGUST 19, 2011

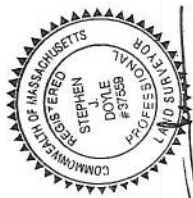
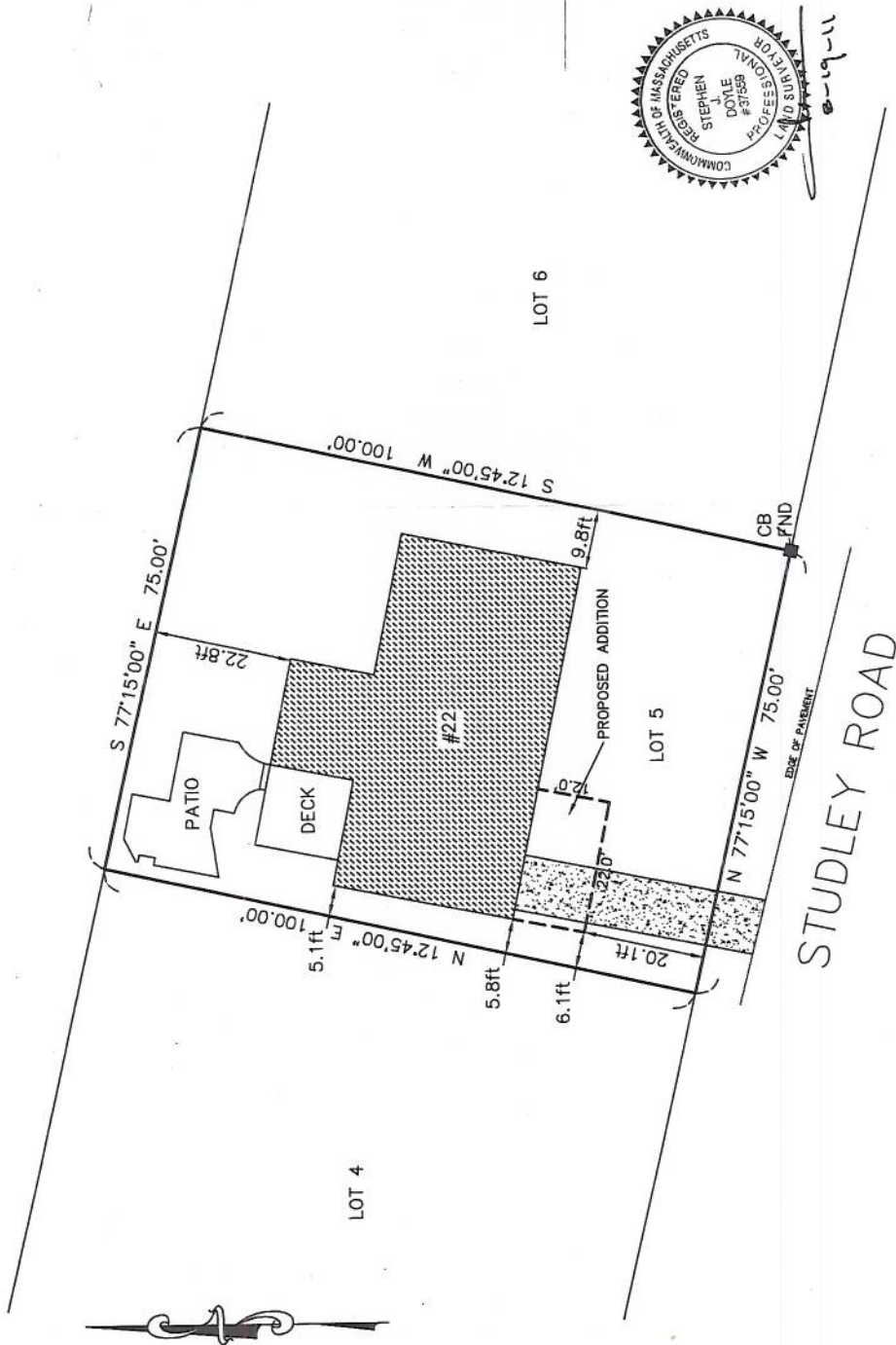
REV:

YANKEE LAND SURVEY
CO., INC.

119 ROUTE 149
MARSTONS MILLS, MA 02648
TEL: 508-428-0055 FAX: 508-420-5553
WWW.YANKEESURVEY.COM

SHEET 1 OF 1

JOB #: 54704 SH



GRAPHIC SCALE



Town of Barnstable
Growth Management Department
Jo Anne Miller Buntich, Director
Staff Memorandum



Appeal 2011-051: Special Permit for Parking Reduction
The Tarkinow Group, LTD (d/b/a BJ's Wholesale Club)
420 Attucks Lane, Hyannis (274/040/001)

Copy of Public Notice

The Tarkinow Group Limited, as managers for First Hyannis Realty, LLC., have petitioned for a Special Permit pursuant to §240-56 *Schedule of Off-Street Parking Requirements* and §240-57 *Circumstances Warranting Reduction of Requirements*. The Petitioner proposes to build an approximately 19,438 square foot addition to the existing 67,179 square foot BJ's Wholesale Club in Hyannis. Prior to the addition, the Zoning Ordinance required 346 parking spaces; 351 are currently provided. With the addition, the Zoning Ordinance requires 444 parking spaces and the Petitioner is proposing to keep the number of parking spaces provided at 351. The property is addressed 420 Attucks Lane, Hyannis, MA, as shown on Assessor's Map 274 as Parcel 040-001. It is in the B Business, Residence G, and Industrial District.

Staff Comments

The proposed 19,438 square foot expansion of the BJ's Wholesale Club on Attucks Way in Hyannis falls under the jurisdiction of the Cape Cod Commission as a Development of Regional Impact. The Commission reviewed the proposed expansion and issued a Limited DRI Decision approving the project. On October 19, 2011, Atlantis Iyanough Realty, LLC (Stop & Shop) filed an appeal of the Limited DRI Decision, with complaints of "increased traffic and congestion" and "substantial impairment of access", among others.

Under the Cape Cod Commission Act, local municipalities do not have jurisdiction to grant development permits until a DRI Decision is final; thus, the Board does not presently have jurisdiction to act on the Special Permit request.

TOWN OF BARNSTABLE
Zoning Board of Appeals
Petition for a Special Permit

BARNSTABLE
TOWN CLERK

'11 OCT -7 P2:25

Date Received:
Town Clerk office

For office use only
Appeal # 2011-051
Hearing Date: _____
Days Extended: _____
Decision Due: _____

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth:

Petitioner's Name: The Tarkinow Group Limited, Phone: 617-244-4100

Petitioner's Address: 335 Boylston Street, Newton, MA 02459

Property Location: 420 Attucks Lane, Hyannis, MA 02601

Property Owner: First Hyannis Realty, LLC, Phone: 617-244-4100

Address of Owner: Same
If applicant differs from owner, state nature of interest:

Registry of Deeds/Land Court References: Deed: Book 18448, Page 18, Plan: Plan Book 625, Page 34

Assessor's Map / Parcel Number: R274 / 040-001 Zoning District: B
Number of Years Owned: 7 years Groundwater Overlay District: GP & AP

Special Permit Requested: §240-56 Schedule of Off-Street Parking Requirements and §240-57
Circumstances warranting reduction of requirements
Cite Section & Title from the Zoning Ordinance

Description of Activity / Reason for Request: The Applicant proposes to build an approximately 19,438 square foot addition to the existing 67,179 square foot BJ's Wholesale Club located at 420 Attucks Lane, Hyannis, MA. Prior to the addition, the Zoning Ordinance requires 346 parking spaces and 351 parking spaces have been provided. With the addition, the Zoning Ordinance requires 444 spaces and the Applicant is proposing to keep the parking spaces provided at 351.

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit? No
Permit No.: _____

Description of Construction Activity (If Applicable): Addition of 19,438 square feet to an existing retail building. The addition will have a brick exterior matching the existing structure.

Attach additional sheet if necessary

Existing Level of Development of the Property – Number of Buildings: 1

Present Use(s): Retail,

Existing Gross Floor Area: 67,179 sq. ft. Proposed New Gross Floor Area to be Added: 19,438 sq. ft.

Site Plan Review Number: _____ Date Approved: _____ (not Required for Single or Two Family Use)

Is the property located in a designated Historic District?	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]
Is this proposal subject to the jurisdiction of the Conservation Commission	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]
Is this proposal subject to approval by the Board of Health	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]
Is the building a designated Historic Landmark?	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]

Have you applied for a building permit?	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]
Have you been refused a building permit?	Yes [<input type="checkbox"/>]	No [<input checked="" type="checkbox"/>]

The following Required information , as applicable to application, must be submitted with the application the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed **application form**, each with original signatures.
- Three (3) copies of a 'wet sealed' **certified property survey** (plot plan) and (1) reduced copy (8 ½" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and location of the existing improvements on the land.
- Three(3) copies of a **proposed site improvement plan**, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 ½" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit **any additional supporting documents** to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

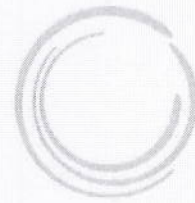
Signature: _____ Date: 10/7/11

John W. Kenney, Esq.

Agent's Address: 12 Center Place
1550 Falmouth Road
Centerville, MA 02632
508-771-9300
Fax: 508-775-6029
e-mail: John@jwkesq.com

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org



CAPE COD
COMMISSION

Certified Mail

October 24, 2011

Jo Anne Miller Buntich
Director of Growth Management
Town of Barnstable
367 Main Street, Third Floor
Hyannis, MA 02061

RE: BJs Wholesale Club Addition – TR/LR 09015

Dear Jo Anne:

On September 15, 2011, the Cape Cod Commission issued a Limited DRI approval decision with conditions for the construction of a 19,438 square foot addition to the existing BJs Wholesale Club store at 420 Attucks Lane, Hyannis MA.

General Condition 4 of this decision states “[n]o development work, as the term “development” is defined in the Cape Cod Commission Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.”

In addition, Section 13(e) of the Commission Act states “[t]he commission may approve, approve with conditions, or disapprove the development of regional impact. If the commission disapproves the development of regional impact no further work may be done on the development. A development of regional impact which has been approved, or approved with conditions shall be valid and effective, and municipal development permits may be issued pursuant thereto for seven years following the date of the written decision; provided, however, that in the event of any appeal from the decision, the seven year period specified herein shall begin only after the final disposition of any appeal. Upon the expiration of said seven year period, or said seven years as extended, no municipality may issue development permits pursuant to the original development of regional impact decision.”

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Kristy Senatori
Chief Regulatory Officer



Town of Barnstable
Growth Management Department
Jo Anne Miller Buntich, Director
Staff Report



Special Permit 2011-052 – Thomas
Section 240-47.1 – Family Apartments
For a 1,197 square foot family apartment

Date: November 2, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner

Petitioner: **Michael Thomas**
Property Address: 12 Duncan Lane, Centerville
Assessor's Map/Parcel: Map 147 Parcel 025
Zoning: Residence C District, GP Overlay District

Filed: October 14, 2011

Hearing: November 9, 2011

Decision Due: February 7, 2012

Copy of Public Notice

Michael W. Thomas has petitioned for a Special Permit pursuant to Section 240-47.1(A)(3) Family Apartments for a family apartment greater than 800 square feet. The Petitioner has obtained permits to construct a 710 square foot family apartment attached to the primary dwelling. The Petitioner seeks to finish a 487 square foot basement area for use in conjunction with the apartment. The resulting apartment will have a total finished area of 1,197 square feet. The subject property is located at 12 Duncan Lane, Centerville, MA, 02632, as shown on Assessor's Map 147 as Parcel 025. It is in the Residence C Zoning District.

Background & Relief Requested

In appeal 2011-052, Michael Thomas requests a special permit pursuant to Section 240-47.1 to construct a family apartment with 1,197 square feet for occupancy by his mother. Family apartments less than 800 square feet are permitted as-of-right right, and apartments between 800 and 1,200 square feet may be allowed with a Special Permit from the Zoning Board of Appeals.

The Petitioner was issued a building permit to construct an addition to the principal dwelling, which included a 700 square foot family apartment. The addition included a partial full basement. The Petitioner now seeks to finish the basement and use it in conjunction with the family apartment. The basement area can only be accessed from inside the family apartment. The total proposed gross square footage of the apartment, including the basement, is 1,197 square feet.

The subject property is addressed 12 Duncan Lane in Centerville. The lot is 14,810 square feet in area. The principal dwelling is a two-bedroom, 2,008 gross square foot ranch house with 864 square feet of living area. The proposed addition will be attached to the existing dwelling.

The Petitioner has already completed the requirements to allow a family apartment on the property, pursuant to Section 240-47.1, including recording the required family apartment accessory use restriction document. The Petitioner has not yet been issued a Certificate of Occupancy for the family apartment.

Plans submitted by the Petitioner provide details of the proposed work. A detailed floor plan shows the proposed family apartment and the basement area. Elevations are also provided. The proposed addition is in compliance with the setback requirements of the RC district; the addition will be set back 10.3 feet from the property line. The proposed lot coverage is approximately 12 percent, not including an existing shed which will be relocated to accommodate the addition.

The Petitioner recently upgraded the septic system to accommodate a total of three bedrooms on the property. There are two existing bedrooms in the dwelling and a one in the family apartment. A deed recorded in Book 6588 Page 013 provides standing for the Petitioner to make application to the Board.

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C) that support:

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:

Section 240-47.1 of the Barnstable Zoning Ordinance allows for a family apartment greater than 800 square feet, not to exceed 1,200 square feet, with a Special Permit from the Zoning Board of Appeals.

- **Site Plan Review is not required for alteration or expansion of a single-family residential structure.**
 - **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 the neighborhood affected.**
-

Suggested Conditions

Should the Board find to grant the special permit, it may wish to consider the following conditions:

1. Special Permit 2011-052 is granted to Michael Thomas for a 1,197 square foot one-bedroom family apartment at 12 Duncan Lane, Centerville. The family apartment will be comprised of a first floor living area of 700 square feet and a finished basement area of 487 square feet.
2. The addition shall be constructed in substantial conformance with the plans entitled "New Addition/Remodeling for Thomas Residence, 12 Duncan Lane" drawn by Cotuit Bay Design, dated August 30, 2011, A1 – A7.
3. Parking for the family apartment and principal dwelling shall be provided on-site.
4. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a Certificate of Occupancy for the family apartment. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant

Attachments: Application
 Building Permit
 Agreement for Family Apartment (Bk 25714, Pg 84)
 Sewage System Upgrade Plan
 Floor Plans and Elevations, Cotuit Bay Design



BARNSTABLE
TOWN CLERK

'11 OCT 14 A9:43

**Town of Barnstable
Zoning Board of Appeals
Petition for a Special Permit**

Date Received _____
Town Clerk's Office: _____

For office use only:

Appeal # 2011-052
Hearing Date _____
Days Extended _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name¹: Michael Thomas, Phone: _____

Petitioner's Address: 12 Duncan Lane, Centerville, MA 02632

Property Location: Centerville, West of Old Stage Rd.

Property Owner: Michael Thomas, Phone: _____

Address of Owner: 12 Duncan Lane, Centerville, MA 02632

If applicant differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed Bk 6588, Pg. 13 Plan Book 252, Page 32, Lot 48

Assessor's Map/Parcel Number: 147/025 Zoning District: RC GP Overlay

Number of Years Owned: 15+ Groundwater Overlay District: Yes

Special Permit Requested: 240-47.1 -- Family Apartment Exceeding 800 sq. ft.
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: Finish basement under Family

Apartment See attached description

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special PermitNo ☒ Yes ☐ - _____
Permit # _____

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.

² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): _____

Finish Basement -- See attached Description

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: One Building, Shed

Present Use(s): Single Family Home

Existing Gross Floor Area: 2474 sq. ft. Proposed New Gross Floor Area: 487 sq. ft.

Site Plan Review Number: N/A Date Approved: _____ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes [] No [X]

Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No [X]

Is this proposal subject to approval by the Board of Health Yes [] No [X]

Is the building a designated Historic Landmark?..... Yes [] No [X]

Have you applied for a building permit?..... Yes [X] No [] see attached

Have you been refused a building permit?..... Yes [] No [X]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Michael Thomas Date: 10/14/11
Applicant's or Representative's Signature³

Print Name Paul Revere, Esq.

Address: 297 North, Suite 336 Phone: 508-237-1620

Hyannis, MA 02601 Fax No.: 508-778-5769

e-mail Address: revereiii@aol.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

DESCRIPTION OF PROJECT

The applicant has obtained a by-right building permit to construct a family apartment pursuant to Section 240-47.1 of Barnstable Zoning Ordinance for a single bedroom family apartment for his mother Irene Thomas. A copy of the application with a notation that the building permit was issued on September 28, 2011, is attached as Exhibit One.

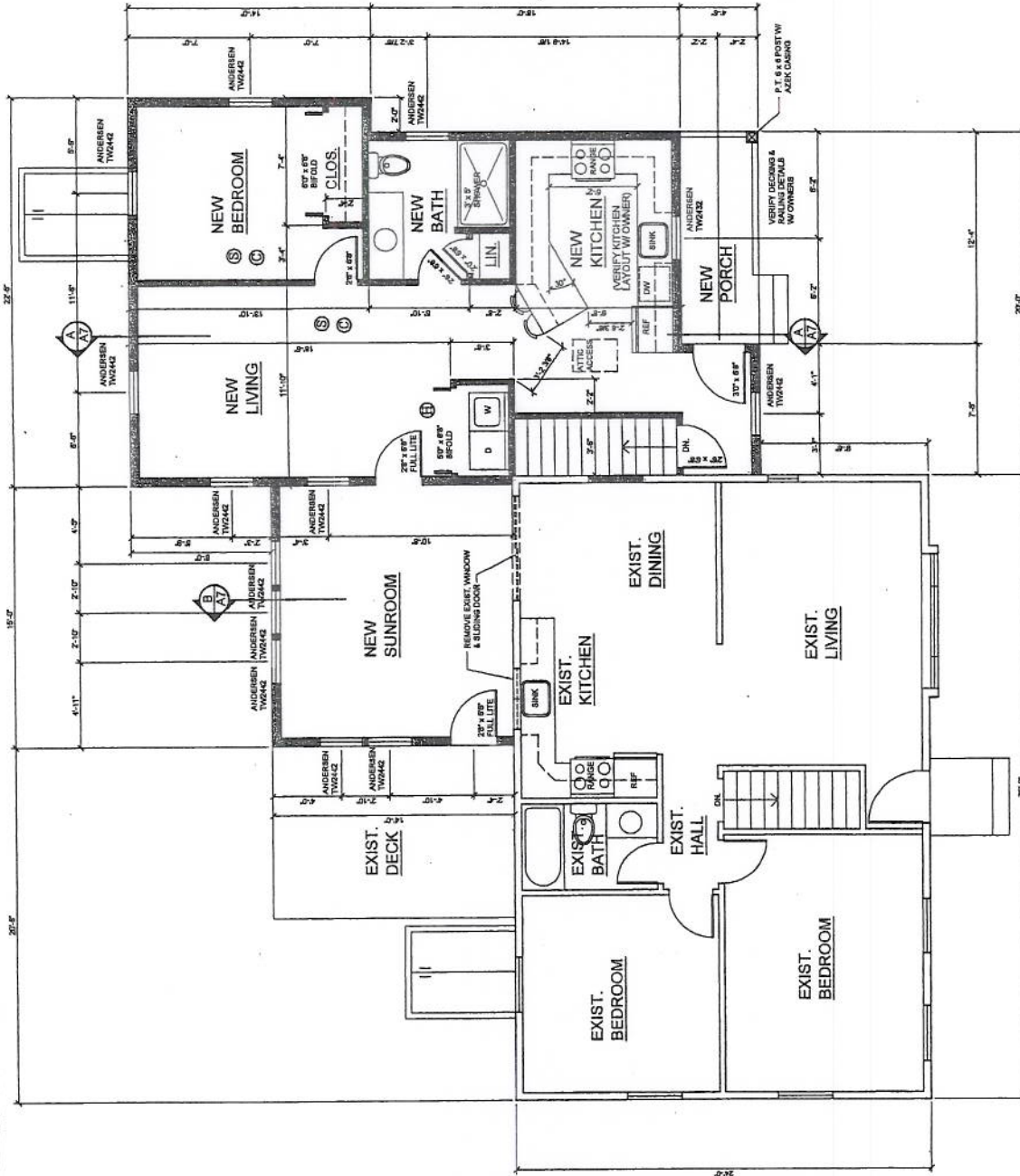
Consistent with that permit, the applicant recorded an "Agreement for Family Apartment" with the Barnstable County Registry of Deeds. Copy attached as Exhibit Two.

The family apartment for which the building permit has been issued consists a single bedroom apartment of 710 square feet with a portion of the apartment located over a crawl space and a portion located over a full basement. A copy of a site plan for the property and a building plan including elevations and floor plans are attached as Exhibits Three and Four.

The applicant desires to finish the basement under a portion of the family apartment so that the applicant's mother can use the area for her arts and craft hobbies. The maximum square footage of the basement floor is 487 square feet although the finished area will be less as studs and wallboard will decrease the actual floor area. The finishing of the basement will result in the family apartment exceeding 800 square feet requiring a special permit.

Section 240-47.1A(1) allows the issuance of a special permit for a family apartment of up to 1200 square feet. Here, if finishing the basement is approved, the family apartment will have at most 1197 square feet.

The allowance of the special permit is consistent with the intent of the ordinance as the space will be used by the family member and will not result in a detriment to the neighborhood as it will not increase the occupancy of the family apartment nor change the appearance of the single family home from the outside as all finished areas will be in a basement that has already been issued a building permit.



FIRST FLOOR PLAN

LEGEND:

- EXISTING WALLS
- CONSTRUCTION TO BE REMOVED
- NEW CONSTRUCTION
- EXISTING HOUSE = 884 S.F.
- NEW SUNROOM = 210 S.F.
- NEW FAMILY APARTMENT = 708 S.F.
- SMOKE DETECTOR
- CARBON MONOXIDE DETECTOR
- HEAT DETECTOR

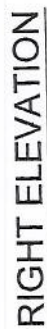
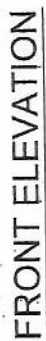
NEW ADDITION/REMODELING FOR:

THOMAS RESIDENCE
12 DUNCAN LANE CENTERVILLE, MA

COTUIT BAY DESIGN, LLC
43 BREWSTER ROAD
MASHPEE, MA. 02649
PH. (508) 274-1166
FAX (508) 539-9402

SCALE: 1/4" = 1'-0"
DATE: 8/30/2011
DRAWING NO.: A1

THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. THE BUILDING DEPARTMENT SHALL BE THE FINAL AUTHORITY IN ALL MATTERS RELATING TO THE PERMITTING PROCESS. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. THE BUILDING DEPARTMENT SHALL BE THE FINAL AUTHORITY IN ALL MATTERS RELATING TO THE PERMITTING PROCESS.

[illegible]

NEW ADDITION/REMODELING FOR:
THOMAS RESIDENCE
12 DUNCAN LANE CENTERVILLE, MA

COTUIT BAY DESIGN, LLC
43 BREWSTER ROAD
MASHPEE, MA. 02649
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- 1.) CONTRACTOR IS TO VERIFY ALL EXISTING CONDITIONS & DIMENSIONS IN THE FIELD
- 2.) CONTRACTOR TO VERIFY ALL INTERIOR & EXTERIOR MATERIALS, DETAILS, & FINISHES IN THE FIELD WITH OWNER
- 3.) ROUGH OPENING HEAD HEIGHT OF WINDOWS AT FIRST FLOOR TO BE 6'-10" ABOVE SUB FLOOR
- 4.) ALL CONSTRUCTION TO CONFORM TO THE IRC2008 BUILDING CODE WITH THE 8TH EDITION MASSACHUSETTS AMENDMENTS
- 5.) 110 MPH EXPOSURE B WIND ZONE, 1.00 ASPECT RATIO
- 6.) ALL SHEETS OF PLYWOOD WALL SHEATHING TO BE INSTALLED VERTICALLY, OR HORIZONTALLY W/ BLOCKING AT EDGES, 3"EDGE/12" FIELD NAILING
- 7.) ALL LVL LUMBER/BEAMS TO BE 1.9e L/480 LOAD
- 8.) TIMBER FRAMING TO BE SPRUCE/PINE/RAI NR. 2 GRADE
- 9.) FOLLOW ALL MANUFACTURER'S SPECIFICATIONS FOR INSTALLATION OF ALL SIMPSON COMPONENTS
- 10.) ALL CONCRETE USED FOR FOUNDATION WALLS, FOOTINGS & SLABS TO BE 3000 PSI
- 11.) VERIFY ALL PLUMBING & ELECTRICAL DETAILS W/ OWNERS ON THE SITE DURING FRAMING CONSTRUCTION

TABLE 4.2.1.1 (MINIMUM PRESCRIPTIVE INSULATION & FENESTRATION REQUIREMENTS)										
CLIMATE ZONE A (USE EITHER PRESCRIPTIVE VALUES OR RESCHECK CALCULATION)	FENESTRATION U-FACTOR	SLOTTED U-FACTOR	CEILING R-VALUE	WROD-FRAMED WALL R-VALUE	FLOOR R-VALUE	BATHROOM WALL		BEDROOM SLAB		CHIMNEY SPACE WALL R-VALUE
						R-VALUE	10/13	R-VALUE	10/13	
1	0.35	0.60	30	20	30					10/13

1. R-VALUES ARE MINIMUMS & U-FACTORS ARE MAXIMUMS.
2. 1013 MEANS R=15 CONTINUOUS INSULATED SHEATHING ON THE INTERIOR OR EXTERIOR OF THE HOME OR R=13 CAVITY INSULATION AT THE INTERIOR OF THE BASEMENT WALL.
3. REFER TO IECC 2009 CHAPTER 4 FOR ALL INSULATION & ENERGY REQUIREMENTS

110 MPH EXPOSURE B WIND ZONE		NO. OF COMMON NAILS	NO. OF BOX NAILS	NAIL SPACING
JOINT DESCRIPTION				
ROOF FRAMING:				
BLOCKING TO RAFTER (TIE NAILS)	2 M		3-10d	EACH END
RIM BOARD TO RAFTER (END NAILS)	2-18d		3-10d	EACH END
WALL FRAMING:				
TOP PLATES AT INTERSECTIONS (FACE NAILS)	4-16d		5-16d	2" o.c.
TOP PLATES AT INTERSECTIONS (BACK NAILS)	3-18d		2-16d	16" o.c. ALONG EDGES
HEADER TO BRACE (FACE NAILS)	2-18d		10d	
FLOOR FRAMING:				
FLOOR TO SILL, TOP PLATE OR GIRDER (TIE NAILS)	4-8d		4-10d	PER JOIST
BLOCKING TO JOISTS (TIE NAILS)	2-8d		2-10d	EACH END
BRACE TO JOISTS (FACE NAILS)	3-10d		4-16d	EACH BLOCK
LEADER STUD TO BRIM OR GIRDER (FACE NAIL)	3-16d		3-10d	PER JOIST
JOIST ON LEADER TO BRIM (FACE NAILS)	3-8d		3-10d	PER JOIST
BRIM JOINT TO JOIST (BRIM NAILS)	3-16d		4-16d	PER JOIST
JOIST JOINT TO JOIST (BRIM NAILS)	2-16d		3-10d	PER FOOT
CEILING FRAMING:				
WOOD STRUCTURAL PANEL (PLYWOOD)	M			4" EDGE/17" FIELD
RAFTERS OR TRUSSES SPACED TO 16" o.c.	M		10d	4" EDGE/17" FIELD
RAFTERS OR TRUSSES SPACED OVER 16" o.c.	M		12d	4" EDGE/17" FIELD
WOOD STRUCTURAL PANEL (PLYWOOD) OVERHEAD	M		10d	4" EDGE/17" FIELD
GABLE END WALL WARE OR RAISE TRUSS	5d			
W/ STRUCTURAL OUTCROCKERS	5d			
GABLE END WALL WARE OR RAISE TRUSS W/ LOOKOUT BLOCKS	6d		10d	4" EDGE/17" FIELD
CEILING SHEATHING:				
OSB/FLYMA WALLBOARD	5d COLEBUB		---	7" EDGE/17" FIELD
WOOD STRUCTURAL PANEL (PLYWOOD)				
STUDS SPACED TO 16" o.c.	M		10d	3" EDGE/17" FIELD
1/2" x 200# FIBERBOARD PANELS	M			3" EDGE/17" FIELD
1/2" OSB/FLYMA WALLBOARD	5d COLEBUB		---	7" EDGE/17" FIELD
FLOOR SHEATHING:				
WOOD STRUCTURAL PANEL (PLYWOOD)	M		10d	4" EDGE/17" FIELD
1" OR LESS THICKNESS	M		10d	4" EDGE/17" FIELD
GREATER THAN 1" THICKNESS	10d			4" EDGE/17" FIELD

REVISÉ: 9/23/2011

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THOMAS RESIDENCE
112 DUNCAN LANE CEN

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MASHPEE, MA. 02849
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DRAWING NO.:

SCALE:
1/4" = 1'-0"

A4