



Zoning Board of Appeals Meeting Packet

December 14, 2011

A public hearing on the following appeals will be held on December 14, 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 December 14, 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

Approval of minutes from September 14, 2011, October 5, 2011 & October 12, 2011

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, November 9, 2011, December 14, 2011 and January 11, 2012.

Board Members Assigned: William H. Newton, George T. Zevitas, Brian Florence, Alex M. Rodolakis, Laura F. Shufelt
Decision Due: September 15, 2011, **With Extension:** January 20, 2012

7:00 PM Appeal No. 2011-049 - Continued

Elwell

Todd C. Elwell has applied for a Special Permit in accordance with Section 240-11 C(1) – Conditional Uses in the RB District. The applicant seeks a Special Permit for renting of rooms to no more than six lodgers in one multiple-unit dwelling. The property is addressed 45 Newton Street, Hyannis, MA as shown on Assessor's Map 308 as parcel 158. It is in a Residence B Zoning District.

Opened October 26, 2011 and continued to December 14, 2011. No members assigned, no testimony taken.
Decision Due: January 24, 2012

7:05 PM Appeal No. 2011-054 - New

OCW Retail-Hyannis, LLC

OCW Retail-Hyannis, LLC has petitioned for Special Permits for the construction of an approximately 8,050 square foot building for restaurant and retail use, together with a new entrance-only curb cut on Route 132 and related parking and infrastructure improvements in the Southwind Plaza shopping center. Special Permit relief is requested in accordance with Section 240-25.C(1) - Conditional Uses to allow for up to four tenant spaces for restaurant and retail purposes in the HB District. Special Permit relief is also requested in accordance with Section 240-93.B – Alteration/Expansion of a

Nonconforming Building/Structure to expand the preexisting nonconforming lot coverage from the existing 56.4% to the proposed 61.2% lot coverage. And, the Petitioner requests to modify Special Permit No. 1997-23 to allow a proposed right-turn only entrance into the site off Route 132. The subject properties are located at 990 Iyannough Road (Route 132) and 65 Independence Drive, Hyannis MA as shown on Assessor's Map 295 as Parcel 015-X02 and Map 294 as Parcel 004. They are in the HB Highway Business, B Business and IND Industrial Zoning Districts and the Groundwater Protection Overlay District.

7:05 PM Appeal No. 2011-055 - New

OCW Retail-Hyannis, LLC

OCW Retail-Hyannis, LLC has applied for a variance to Section 240-35.F(3) – Groundwater Protection Overlay District Lot Coverage. The applicant is proposing to construct an approximately 8,050 square foot building for retail and restaurant use, together with a new entrance-only curb cut on Route 132 and related parking and infrastructure improvements in the Southwind Plaza shopping center. This project will increase the impervious coverage on the site from 56.4% to 61.2%, where a maximum 50% impervious coverage is required in the GP Overlay District. The properties are located at 990 Iyannough Road (Route 132) and 65 Independence Drive, Hyannis MA as shown on Assessor's Map 295 as Parcel 015-X02 and Map 294 as Parcel 004. They are in the HB Highway Business, B Business and IND Industrial Zoning Districts and the Groundwater Protection Overlay District.

7:05 PM Appeal No. 2011-043 - Continued

Sarty

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 and December 14, 2011

7:00 PM Appeal No. 2011-053 - New

Holthouse

Rachel Holthouse has petitioned for a Variance to Section 240-11 E – Bulk Regulations, Minimum Side Yard Setback. The petitioner is proposing to construct an addition to the existing single-family dwelling, consisting of an attached garage and living area proposed for use as a family apartment. The addition will be located 4.2 feet from the side property line, where a minimum 10 foot side yard setback is required. The property is located at 13 Laura Road, Centerville, MA as shown on Assessor's Map 251 as Parcel 113. It is in the Residence D-1 Zoning District.

7:15 PM Appeal No. 2011-056 - New

Weber

Donna and Jeff Weber have applied for a Special Permit pursuant to Section 240-94(A) – Change of a nonconforming use to another nonconforming use. The Petitioner is proposing to convert a pre-existing nonconforming two-family dwelling to a single-family dwelling and restore a detached single-family apartment on the rear of the lot. The resulting nonconformity would be two single-family dwellings on one lot. The property is located at 118 Scudder Avenue, Hyannis, MA as shown on Assessor's Map 289 as Parcel 045. It is in the Residence B Zoning District.

7:20 PM Appeal No. 2005-013 - New

Osterville Landing, LLC – Mill Pond Estates

Osterville Landing, LLC has submitted a request for a Minor Modification of the Comprehensive Permit Decision issued in Appeal 2005-013 to allow for the transfer of the Comprehensive Permit from Starboard, LLC, to Osterville Landing, LLC.

Chair's Discussion

Executive Session Minutes Released

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



Appeal 2009-025: Variance Modification

**EAC Disposal, Inc. (d/b/a Cape Resources Company)
280 Old Falmouth Road, Marstons Mills (100/008)**

On November 9, 2011, the Board, by a unanimous vote, expressed their intention to close the public hearing for Appeal No. 2009-025 at the hearing on December 14, 2011. Any additional documentation from the Applicant in support of their request was asked to be submitted two weeks prior to the hearing.

The Applicant submitted the following documents:

- November 7, 2011 letter from Charles Alix, P.E. The letter provides responses to draft variance findings and conditions prepared in accordance with recommendations from SCS Consultants.
- November 22, 2011 Memorandum from Charles Alix, P.E. The memorandum examines sound attenuation of the processing equipment provided by a proposed sound barrier wall.

The next hearing for the variance request is scheduled for January 11, 2012.

Decision Due:
January 20, 2012

Memo



Stantec

To: Wes Gregory From: Charles Alix
WeCare Organics Stantec Consulting Inc.
File: 195112472 Date: November 22, 2011

Reference: Cape Resources Sound Attenuation

The purpose of this memorandum is to examine sound attenuation for the mobile grinding and colorizing equipment operated at the Cape Resources Company (Facility) located at 208 Old Falmouth Road, Marston Mills, MA.

Background:

Cape Resource operates a green waste processing facility at 208 Old Falmouth Road in Marston Mills. There are two pieces of mobile equipment and powered by diesel generators. The site has had complaints about noise in the past related to the grinding and colorizing operations. Currently the following equipment is used for these operations:

- A grinder powered by a Caterpillar (model 3412) 1000 hp turbo diesel generator;
- S colorizer powered by a Mercedes Benz 422 hp turbo diesel generator.

In general both pieces of equipment operate in the same area near the location of the existing metal building. It is understood that only one of these two pieces of equipment operates at any given time.

The Facility is located to the north of Old Falmouth Road. There are residences to the north, north east and west of the facility beyond a wooded area. In addition there is a landfill to the south and are residences to the southwest of Old Falmouth RD. **Figure 1** shows the facility and the surrounding area.

Assessment Criteria:

Marston Mills is a section of the town of Barnstable. The Town of Barnstable regulates nuisance noise under Chapter 133 of the Town ordinances. Under this rule it is unlawful for anyone to cause or allow unnecessary, loud excessive or unusual noise that is plainly audible a distance of 150 feet away from their premises. The Town has proposed a limit of an increase of 10 db over the ambient sound level at the property line. This is based on a past regulation of the Massachusetts Department of Environmental Protection. The rules regulating noise have since been amended and this limit is no longer written into the regulation. For this study the goal will be to limit the sound increase to 10 db within 150 of the property line of the facility or the nearest residence. The ambient noise level for a rural area away from a road is generally considered 40 db. For rural areas on a road the level is 45 db.

December 6, 2011

Wes Gregory

Page 2 of 6

Reference: Cape Resources Sound Study**Figure 1: Area Map (map source licensed Google Earth)****Sound data and acoustical model:**

Specific noise generation data for the equipment in question is not available at this time, therefore estimated data from Stantec's data base was used for this assessment. The data is shown in **Table 1**. As it is understood that only one generator operates at any given time, the generator with the higher power level will be used for this study. Therefore, for this assessment the CAT 1000 hp (approximately 750 kW) turbo diesel generator was considered as its power is twice that of Mercedes Benz 422 hp turbo diesel generator used onsite.

Table 1: Sound data for 1000 hp generator

Description	Octave band center frequencies (Hz)								dBA
	63	125	250	500	1000	2000	4000	8000	
750 kW - Exhaust @ 3.3 feet ¹ [dB]	99	118	120	109	106	98	88	70	114
750 KW - Mechanical @ 3.3 feet ¹ [dB]	93	103	101	101	102	100	96	94	106
Overall at 3.3. feet [dB]	100	119	120	109	107	102	97	94	115

¹ Taken from 75% load data of a 1000 kW generator; dB ref 20×10^{-6} Pa

Using the data in **Table 1**, a predictive analysis was performed using the commercially available software package CADNA/A, a computerized version of the algorithms contained in the ISO 9613-1 and 9613-2 standards. This model includes geometrical divergence (distance attenuation), barrier effects due to intervening structures, ground effects, and atmospheric

Reference: Cape Resources Sound Study

absorption. The model considers a downwind condition, in which for the purpose of analysis the wind direction is assumed to be from generator to the surrounding area.

The analysis was performed for two conditions: the first is the equipment with no sound attenuation. The second added a sound attenuating wall to the north and east of the equipment. For the analysis the following conditions were input:

- The equipment is located to the north of the existing metal building, (See **Figure 2**);
- The base of the generator is six feet above the ground and the exhaust from the generator is 10 feet above the ground;
- It was assumed that the Facility is fairly flat at the location of the generators. This is to say that no credit has been taken for stockpiles of material;
- For the second scenario a sound barrier wall is added. the sound barrier wall is 4 feet higher than the generator exhaust (14 feet tall);
- The equipment is located no more than six feet away from the sound barrier wall and a minimum of six feet in from the end of the wall (see **Figure 3**).

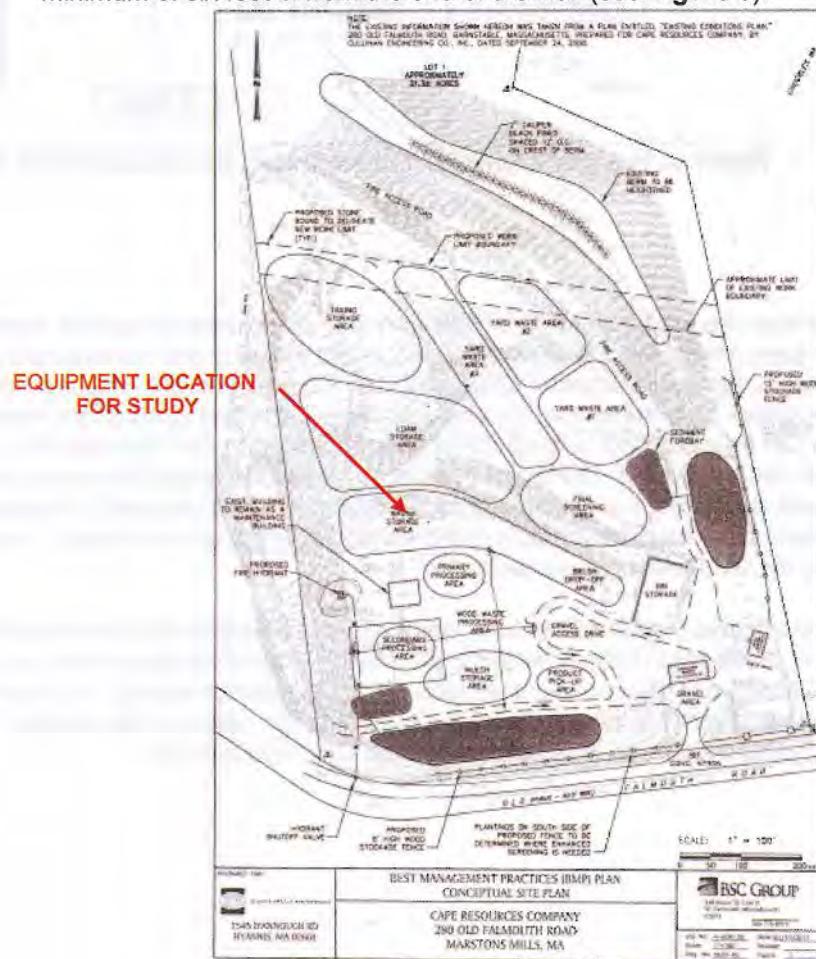


Figure 2: Site plan showing sound source (generator)

Reference: Cape Resources Sound Study

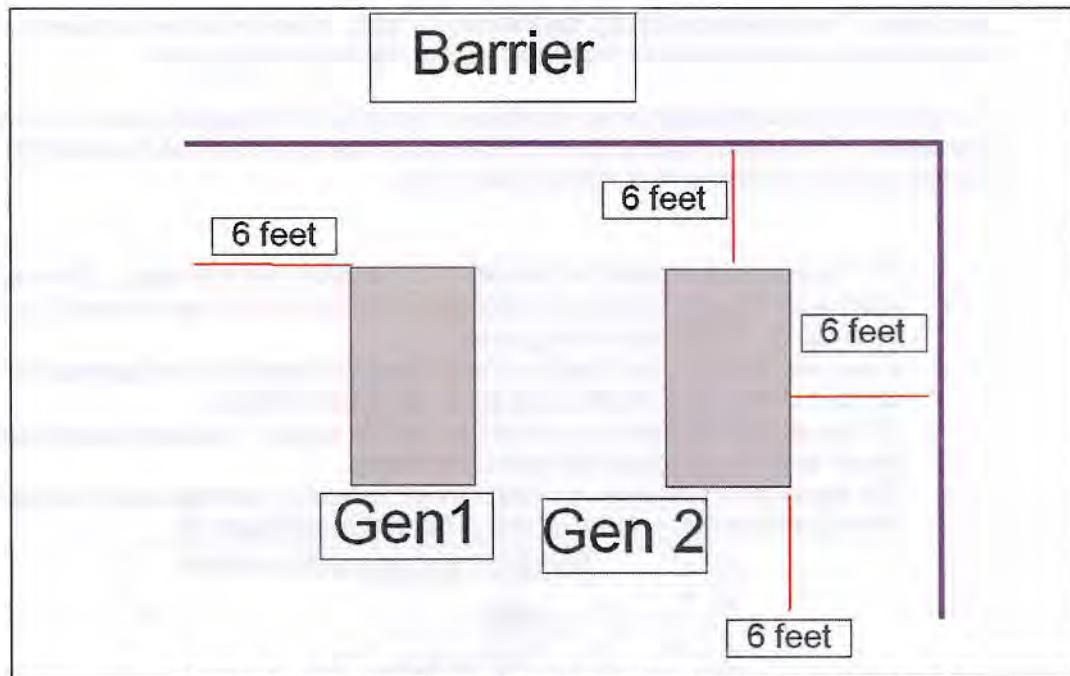


Figure 3: Position of equipment relative to the sound barrier wall

Results:

Figure 4 shows the predicted sound levels from the generators without the sound wall. Figure 5 shows the same thing with a wall in place. AS noted above in the Assessment criteria the target is to achieve 10 bd above ambient noise levels at 150 feet from the property line or at the nearest receptor. The ambient noise level has been estimated at 40 db for residential areas away from Old Falmouth Rd, and 45 db for residences along Old Falmouth Rd. From Figure 4 it can be seen that, without a wall sound level in access of the target can reach the residences to the northeast, northwest and southwest of the facility. Adding the wall to the east and north of the equipment prevented the impacts to the northeast, north and northwest. However the buildings to the southwest are still impacted.

Changing the wall to the south and east would still potentially impact the residences to the west, northwest of the facility. It must be noted that the material stock piles were not considered in the analysis. These piles provide sound reduction but they can be moved. It is worth noting the historically there have not been any noise complaints from south of the facility. This may be due higher than estimated noise levels from traffic on Old Falmouth Rd.

Reference: Cape Resources Sound Study

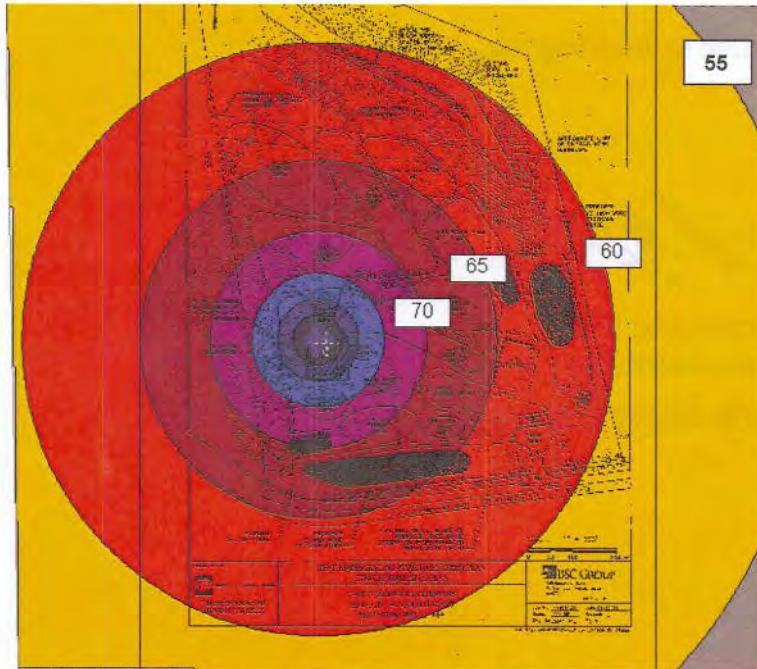


Figure 4: Sound propagation from generator without the barrier

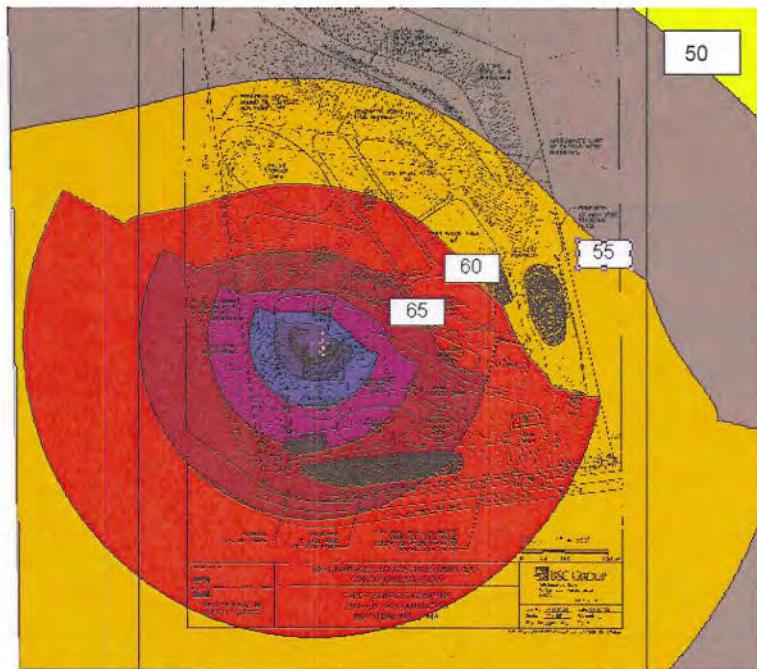


Figure 5: Sound propagation from generator with the barrier

Stantec

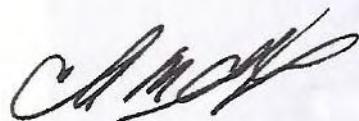
December 6, 2011

Wes Gregory

Page 6 of 6

Reference: Cape Resources Sound Study

Stantec Consulting Inc.

A handwritten signature in black ink, appearing to read "Charles Alix".

Charles Alix, P.E.
Senior Associate

charlie.alix@stantec.com



Stantec

Stantec Consulting Services Inc.
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Westford MA 01886-3538
Tel: (978) 692-1913
Fax: (978) 692-4578

November 07, 2011
File: 195112472

Mr. Wes Gregory
WeCare Organics
P.O. Box 957
Weedsport, NY 13166

Reference: EAC Disposal Odor, Noise and Dust Zoning Conditions

Dear Mr. Gregory:

After attending the September meeting with the Town of Barnstable a review of the proposed Draft Findings and Conditions from the Zoning Board of Appeals Stantec is recommending the details and modifications to the conditions for odor, dust and noise. Below is recommended details or changes to these conditions:

Conditions

Item 12

This item requires two rows of misters to along the edge of the property to remove knock down airborne dust. This type of duct control seeks to remove dust after it is airborne. Once the dust is airborne there are a large number of variables acting upon it that cannot be controlled or accounted for. The major issue is changes in wind speed that can easily overwhelm the mist system. Dust removal by impact with water droplets is dependent on creating the collision between the dust particles and droplets. There is sophisticated engineering and art developed by the scrubber manufacturer Calvert that requires strict control of conditions within a closed vessel. None of this is possible in the open air. The more effective approach is to prevent the dust from becoming airborne.

Proposed Alternative

Dust will be controlled by regular wetting of the traffic surfaces through the facility. These surfaces include but are not limited to areas of public access, all tipping areas, areas around the grinder and screens and areas where equipment are operating. This will be accomplished using a watering truck equipped with spray system. The watering shall take place a minimum of three (3) times a day during dry weather, or whenever airborne dust plumes are visible or limits are recorded with portable dust monitoring equipment.

Item 21

The conditions call for all grinding, colorizing and chipping to be located inside a sound deadening. It further states that there will be no grinding, shredding and chipping outdoors. While it is understood that sound deadening is important there is doubt as to the value of complete enclosure. There are safety issues related to visibility with heavy equipment moving material in and out of the sun to an enclosed building. In addition the ability to approach the equipment and stack material near it is essential to the economic operation of the

November 7, 2011

Page 2 of 4

Reference: EAC Disposal Odor, Noise and Dust Zoning Conditions

facility. It is worth noting that since sound emanates in waves in a straight line away from the source to the receptor. Thus a roof adds very little to sound deadening since sound waves traveling vertically upward do not impact neighbors.

Proposed Alternative

A sound deadening wall will be constructed in the areas where all grinding, shredding and colorization will take place. EAC Disposal Inc. will supply design drawings and calculations stamped by a profession engineer licensed to practice in Massachusetts. The drawings and calculations will be submitted to the Town of Barnstable for approval. The walls(s) will be adequate to prevent noise impacts to the neighbors from the operating equipment as defined in item 45 of the conditions.

Item 38***Proposed monitoring protocol for noise and odor*****Noise:**

Sound level measurements shall be made twice per year at the following times:

- During the month of April when all equipment is operational and foliage has not returned to the trees; and
- During the month of November when all equipment is operational and foliage is off the trees.

These times are selected because the absence of foliage represents the greatest potential to sound to travel offsite to the neighbors.

Measurements will be taken using a portable sound level meter at the locations indicated on **Figure 1**. Measurements will be taken at each location for a minimum of five (5) minutes with readings recorded every 10 seconds for a minimum of 30 readings under each of the following conditions:

- All equipment including grinders, chippers and colorization equipment running and being loaded with material; and
- All grinding, shredding and colorization equipment turned off.

The 30 readings at each location and for each condition will be averaged for comparison of the equipment running to not running conditions. Readings shall not be recorded if extraneous sounds by the sampler or others such as conversation. The intent of the protocol is to establish both background and operating sound levels under worst case conditions for sound exposure by the neighbors.

Measurements are to be taken by independent third party with experience in similar sound testing. A report of the testing shall be provided to the Owner and the Town of Barnstable.

Odor:

Unlike noise odor levels can change frequently with changes to material being brought to the site and therefore will be measured more frequently. However due to the increased frequency it will be necessary to have someone from the site take the readings.

Odor measurements will be taken using a Nasal Ranger as manufactured by St Croix Sensory by a member of the office staff at the facility. The staff member will be trained in the use of the Nasal Ranger by someone

Reference: EAC Disposal Odor, Noise and Dust Zoning Conditions

with experience in its use. Odor measurements will be taken at the locations indicated on Figure 1. Measurements will be made at least once per month under the following conditions:

- The measurements will be taken when the staff member first arrives on site before doing any other activity. This is done to prevent them from becoming desensitized to the ambient conditions.
- There will be no rain or other precipitation during the test.
- Each reading will be recorded along with temperature wind speed and direction as well as notations on activity at the site.

A letter record of each month's tests will be mailed to the Town of Barnstable on the day the measurements are taken.



Figure 1: Odor and noise sampling locations 

Item 39

Proposed Alternate

Based on the protocols in item 38 above no baseline measurements are required and it is suggested that this item be deleted.

Stantec

November 7, 2011

Page 4 of 4

Reference: EAC Disposal Odor, Noise and Dust Zoning Conditions

Item 40

Proposed Alternative

Facility staff shall take dust readings a minimum of twice per day (once in the morning and once in the afternoon) during dry weather for use in determining the need for watering. Readings shall be taken for fifteen minutes and the averaged reading recorded. Along with the reading notations on activities and operating equipment shall be made during the reading. Records of the readings shall be kept on file at the facility. A copy of the readings shall be submitted monthly with the odor records to the Town of Barnstable.

Item 42

Proposed alternative

See item 38

Item 43

Proposed Alternative

Correct typo: change dilution-to -threshold from 3 to 30.

Item 44

Proposed Alternative

See item 38

Item 45

Proposed Alternative

Change "10 decibels" the average readings with equipment on shall not be more than 10 decibels above the average of the readings with all operations stopped as measured in accordance with item 38.

Sincerely,

STANTEC CONSULTING SERVICES INC.

Charles Alix, P.E., P.E.
Senior Associate
Tel: (978) 577-1441
Fax: (978) 692-4578
charlie.alix@stantec.com

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



Special Permit 2011-049 – Elwell

Section 240-11(C)(1) – Renting of Rooms to Lodgers

Conditional Use Special Permit to rent rooms to six lodgers

Date: December 7, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner

Petitioner: Todd C. Elwell
Petitioner's Address: 12 Thornton Drive, Hyannis
Property Address: 45 Newton Street, Hyannis
Assessor's Map/Parcel: Map 308 Parcel 158
Zoning: Residence B District

Filed: September 29, 2011

Hearing: October 26, 2011; December 14, 2011

Decision Due: January 24, 2012

Copy of Public Notice

Todd C. Elwell has applied for a Special Permit in accordance with Section 240-11C(1) – Conditional Uses in the RB District. The applicant seeks a Special Permit for renting of rooms to no more than six lodgers in one multiple-unit dwelling. The property is addressed 45 Newton Street, Hyannis, MA as shown on Assessor's Map 308 as parcel 158. It is in a Residence B Zoning District.

Background

In Appeal 2011-049, the Todd Elwell seeks a Special Permit to rent rooms to up to six lodgers. The subject property is addressed 45 Newton Street; it is a .27 acre parcel located near South Street in Hyannis. The property is developed with a single-family home, constructed in 1931. According to the Assessor's records, the house has a total of 3,914 gross square feet and has one full and one half bathrooms. There is a detached accessory "cottage" on the property, with a total of 460 gross square feet.

The dwelling is currently being operated as a lodging house for an estimated 6-7 people, in violation of zoning. The Applicant does not hold a lodging license for the property. There is no evidence that the principal structure has ever been permitted, registered, or inspected for multiple rental units.

The Applicant filed a Rental Registration Application with the Health Division on August 4, 2011, which indicated that there are two rental units on the property. On August 15, 2011, the Building Division, after inspection of the property, issued the Applicant a Notice of Violation and Order to Abate for operating a "rooming house or multi-family home in a single family residential zone." The Zoning Officer determined that there were multiple people living in the dwelling and the accessory cottage.

There is some indication that the Applicant has rented the dwelling to multiple parties since taking ownership in late 2004. In July 2005, the Health Division issued an Emergency Condemnation and

Order to Vacate to the Applicant for a room rented in the attic of the house; the Order cited inadequate means of egress, a leaking roof, and a minimum ceiling height of less than seven feet.

The detached accessory “cottage” was also being occupied at the time of the inspection in August. In 1987, a prior owner had been issued a building permit to convert this structure into a “family room.” Upon inspection, at least one living unit, including a kitchen and bathroom, had been established in the cottage. Occupancy and/or rental of this structure is not permitted by the Zoning Ordinance. The Building Division has ordered the Applicant to remove the kitchen and cease renting this unit. No building permit application to remove the kitchen has been filed to date.

Relief Requested

In Appeal 2011-049, Todd Elwell has applied for a Special Permit pursuant to Section 240-11(C). That section allows “renting of rooms for up to six lodgers in one multiple-unit dwelling” as a conditional use in the Residence B Zoning District.

The principal dwelling on the structure does not appear to qualify as a “multi-unit dwelling”. The dwelling was constructed as a single-family home and it appears modifications were never made to accommodate multiple renters. The Assessor’s record indicates that the dwelling only has one full bathroom.¹ The Zoning Officer notes that there is one communal kitchen.

Site Plan Review

New or modified uses or structures other than single- and two-family dwellings require Site Plan Review Approval under Article IX of the Zoning Code. The Building Commissioner determined that the proposed lodging house required Site Plan approval and the Applicant filed for review of a 6-person lodging house with 8 parking spaces. Plans for the proposal were reviewed at an informal Site Plan Review Committee meeting on November 15, 2011. The Committee issued comments to the Applicant addressing the structure and the proposed parking. The Committee addressed the status of the structure as a “multi-unit dwelling” and indicated that the arrangement of parking spaces needed to be revised and landscape buffers added.

To date, the Applicant has not responded to the comments issued by the Site Plan Review Committee. The Committee has not approved a site plan for the proposed use. Section 240-125(C) *Special permit provisions* requires the Board to find that “a site plan has been reviewed and found approvable” prior to grant of a Special Permit.

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.
- A site plan has been reviewed and found approvable in accordance with Article IX of the Zoning Ordinance.
- 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.

¹ The dwelling is connected to sanitary sewer.

Suggested Conditions

No conditions have been prepared for this request due to the need for public testimony and comments from the Board.

Copies: Applicant

Attachments: Application
Floor Plans (by Applicant)
Site Plan Review Committee Comments, 10/15/11 & Submission
Memo from Zoning Officer, 10/20/11
Assessor's Record & Aerial Photo

§ 240-11. RB, RD-1 and RF-2 Residential Districts.

A. Principal permitted uses. The following uses are permitted in the RB, RD-1 and RF-2 Districts:

- (1) Single-family residential dwelling (detached).

B. Accessory uses. The following uses are permitted as accessory uses in the RB, RD-1 and RF-2 Districts:

- (1) Renting of rooms for not more than three nonfamily members by the family residing in a single-family dwelling. [Amended 11-7-1987 by Art. 12]

- (2) Keeping, stabling and maintenance of horses subject to the following:

- (a) Horses are not kept for economic gain.
- (b) A minimum of 21,780 square feet of lot area is provided, except that an additional 10,890 square feet of lot area for each horse in excess of two shall be provided.
- (c) All state and local health regulations are complied with.
- (d) Adequate fencing is installed and maintained to contain the horses within the property, except that the use of barbed wire is prohibited.
- (e) All structures, including riding rings and fences to contain horses, conform to 50% of the setback requirements of the district in which located.
- (f) No temporary buildings, tents, trailers or packing crates are used.
- (g) The area is landscaped to harmonize with the character of the neighborhood.
- (h) The land is maintained so as not to create a nuisance.
- (i) No outside artificial lighting is used beyond that normally used in residential districts.

C. Conditional uses. The following uses are permitted as conditional uses in the RB, RD-1 and RF-2 Districts, provided a special permit is first obtained from the Zoning Board of Appeals subject to the provisions of § 240-125C herein and the specific standards for such conditional uses as required in this section:

- (1) Renting of rooms to no more than six lodgers in one multiple-unit dwelling.

- (2) Public or private regulation golf courses subject to the following:

- (a) A minimum length of 1,000 yards is provided for a nine-hole course and 2,000 yards for an eighteen-hole course.
- (b) No accessory buildings are located on the premises except those for storage of golf course maintenance equipment and materials, golf carts, a pro shop for the sale of golf related articles, rest rooms, shower facilities and locker rooms.

- (3) Keeping, stabling and maintenance of horses in excess of the density provisions of Subsection B(2)(b) herein, either on the same or adjacent lot as the principal building to which such use is accessory.

- (4) (Reserved) Editor's Note: Former Subsection C(4), regarding family apartments, was repealed 11-18-2004 by Order No. 2005-026. See now § 240-47.1.

- (5) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy, but only as an accessory use.

- (6) Bed-and-breakfast.



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

Date Received
Town Clerk's Office:

For office use only: 2011-049
Appeal # 2011-049
Hearing Date 5/10/11
Days Extended _____
Decision Due 5/10/11

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: Todd C. Elwell, Phone: 508 778-2625

Petitioner's Address: 12 Thornton Drive, Hyannis, MA 02601

Property Location: 45 Newton Street, Hyannis

Property Owner: Todd C. Elwell, Phone: 508 778-2625

Address of Owner: 12 Thornton Drive, Hyannis, MA 02601

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

Registry of Deeds/Land Court References: Deed CTF 174273 Plan 24291-A and 9638-G

Assessor's Map/Parcel Number: 308/158 Zoning District: RB

Number of Years Owned: 7 Groundwater Overlay District: AP

Special Permit Requested: 240-11C(1)

Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: renting of rooms to six lodgers

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No [X] 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): NONE

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): Residential Use

Existing Gross Floor Area: 1,978 sq. ft. Proposed New Gross Floor Area: 1,978 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 [] 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 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:  Date: 9-22-11

Applicant or Representative's Signature³

Print Name: STEVEN J. PIZZUTI, ESQ.

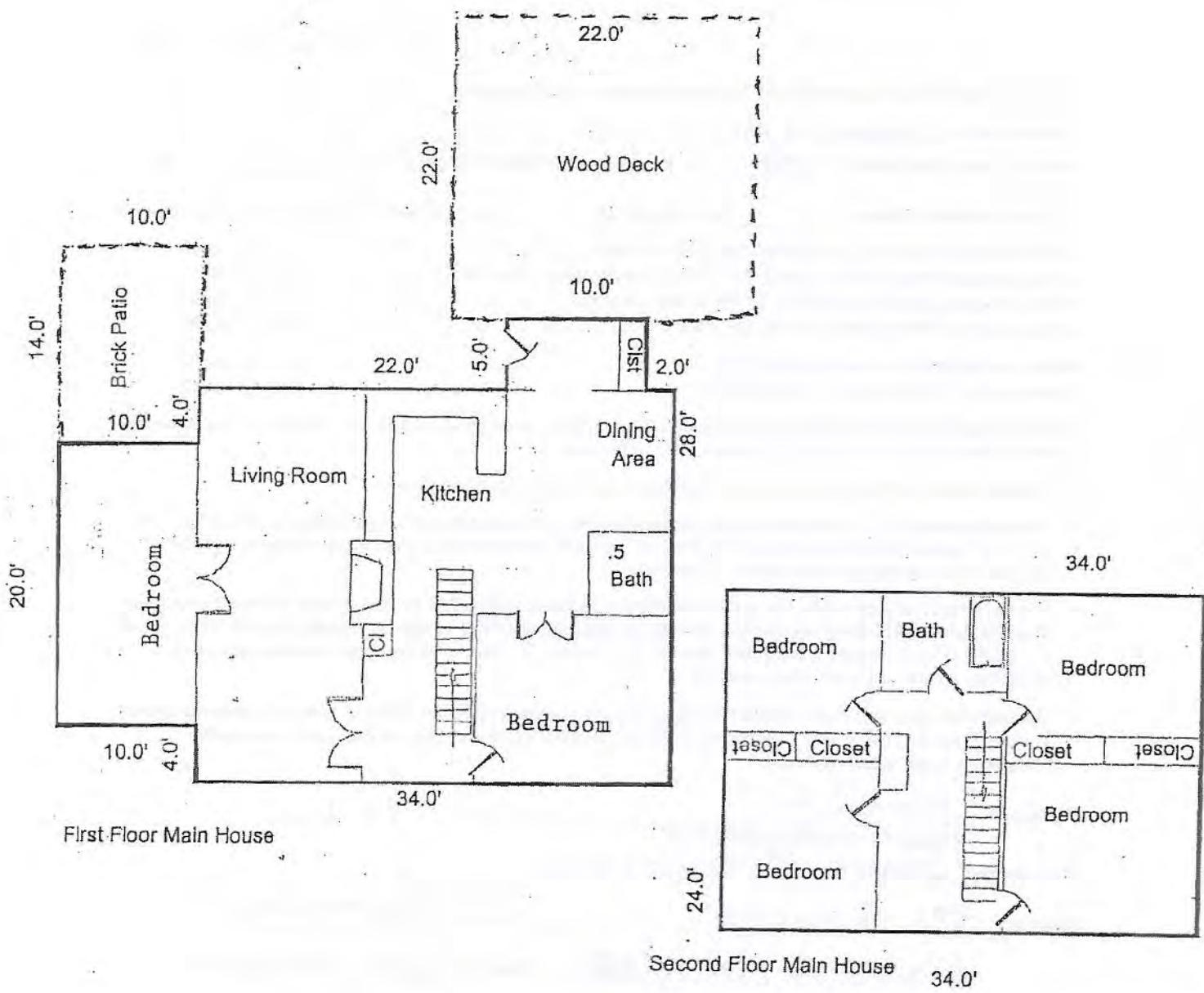
Address: 336 SOUTH ST Phone: 508-771-1911

Fax No.: 508-790-0800

e-mail Address: STEVEN@PIZZUTIPLAUS.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.

Floor Plan
44 Newton Street, Hyannis, MA



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

Staff Report

Appeals 2011-054 and 2011-055 – OCW Retail - Hyannis, LLC

**Special Permit – Section 240-25 (C)(1) and Section 240-93(B)
Modification of Special Permit No. 1997-23**

Variance – Section 240-35 (F)(3)

To construct a 8,050 sq.ft restaurant/retail building in Southwind Plaza



Date: December 7, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner

Petitioner: OCW Retail - Hyannis, LLC c/o The Wilder Companies, Ltd.
Petitioner's Address: 800 Boylston St Ste 1300, Boston, MA
Property Address: 990 Iyannough Road and 65 Independence Drive
Assessor's Map/Parcel: 295/015-X02 and 294/004
Zoning: Highway Business, Business, and Industrial District
Groundwater Protection Overlay District

Filed: October 18, 2011

Hearing: December 14, 2011

Decision Due: February 7, 2012

Copy of Public Notice

Appeal No. 2011-054

OCW Retail-Hyannis, LLC has petitioned for Special Permits for the construction of an approximately 8,050 square foot building for restaurant and retail use, together with a new entrance-only curb cut on Route 132 and related parking and infrastructure improvements in the Southwind Plaza shopping center. Special Permit relief is requested in accordance with Section 240-25.C(1) - Conditional Uses to allow for up to four tenant spaces for restaurant and retail purposes in the HB District. Special Permit relief is also requested in accordance with Section 240-93.B – Alteration/Expansion of a Nonconforming Building/Structure to expand the preexisting nonconforming lot coverage from the existing 56.4% to the proposed 61.2% lot coverage. And, the Petitioner requests to modify Special Permit No. 1997-23 to allow a proposed right-turn only entrance into the site off Route 132. The subject properties are located at 990 Iyannough Road (Route 132) and 65 Independence Drive, Hyannis MA as shown on Assessor's Map 295 as Parcel 015-X02 and Map 294 as Parcel 004. They are in the HB Highway Business, B Business and IND Industrial Zoning Districts and the Groundwater Protection Overlay District.

Appeal No. 2011-055

OCW Retail-Hyannis, LLC has applied for a variance to Section 240-35.F(3) – Groundwater Protection Overlay District Lot Coverage. The applicant is proposing to construct an approximately 8,050 square foot building for retail and restaurant use, together with a new entrance-only curb cut on Route 132 and related parking and infrastructure improvements in the Southwind Plaza shopping center. This project will increase the impervious coverage on the site from 56.4% to 61.2%, where a maximum 50% impervious coverage is required in the GP Overlay District. The properties are located at 990 Iyannough Road (Route 132) and 65 Independence Drive, Hyannis MA as shown on Assessor's Map 295 as Parcel 015-X02 and Map 294 as Parcel 004. They are in the HB Highway Business, B Business and IND Industrial Zoning Districts and the Groundwater Protection Overlay District.

Background & Proposal

Development Proposal

OCW Retail-Hyannis, LLC has applied for relief to construct a one-story retail/restaurant building at the Southwind Plaza shopping center in Hyannis. The project site is the previously-cleared lot between the former Border's bookstore building and Sam Diego's Mexican restaurant.

OCW Retail-Hyannis owns the project site, the Border's site, and the Southwind Plaza shopping center. These properties were unified into one lot by a perimeter plan recorded in 2007.¹ Portions of the Southwind Plaza shopping center and the Border's site were developed subject to the Cape Cod Commission's regulations for Developments of Regional Impact.

The new retail/restaurant building is proposed to be 8,050 gross square feet and have a maximum of four tenant spaces. Based on the plans submitted by the Applicant, the initial configuration will dedicate two tenant spaces for restaurant use and two for retail use. Associated site improvements include 103 parking stalls, landscaping, lighting, and stormwater improvements.

Vehicular and pedestrian cross-access is proposed between the new development and the Border's site. The Border's site is currently accessed from a right-in/right-out curb cut on Route 132. Two additional access points to the project site are proposed: a new right-in only access from Route 132 and a connection to the existing access road off of Independence Drive into the Southwind Plaza shopping center.²

Special Permit 1997-23

Prior to 1997, access to Southwind Plaza from Route 132 was provided by a drive that ran along the west side of the project area. That drive was abandoned when the Border's bookstore site was developed and the existing right-in/right-out access was constructed. As part of the permitting for the Border's store, the developer obtained a Conditional Use Special Permit (No. 1997-23) from the Board to allow retail uses in the HB District. During the review of that permit, the Board sought assurance from the developer that the drive on the west side of the project area would be closed prior to opening a new curb cut. Condition Nos. 9 and 10 of Permit No. 1997-23 required closure of a curb cut and abandonment of an access drive previously located on the project site.

Relief Requested

In Appeal Nos. 2011-054 and 2011-055, the Applicant requests the following:

- A Conditional Use Special Permit to allow restaurant and retail uses in the HB Zoning District. The developed portion of the site is located within the HB Zoning District. Section 240-25(C)(1) allows both restaurant and retail uses in the HB District with a Special Permit from the ZBA.
- A Special Permit in accordance with Section 240-93(B) to alter and expand the site's preexisting nonconforming impervious surface coverage. For the purpose of lot coverage calculations, the area and coverage of the entire Southwind Plaza shopping center is considered, because the property was consolidated into one lot by a perimeter plan. The existing impervious surface coverage of the shopping center lot is 765,448 sq.ft, or 56.4% of the lot. The applicant is proposing to increase the impervious surface coverage of the site by an additional 64,751 sq.ft, to a total of 61.2% of the lot. The Groundwater Protection Overlay District requires that "no

¹ A plan prepared pursuant to MGL Chapter 81, Section X is recorded at the Barnstable County Registry of Deeds in Plan Book 617 Page 35.

² The adjacent Sam Diego's site is under separate ownership from the Southwind Plaza shopping center and thus no cross access between the sites is proposed.

more than 50% of the total upland area of any lot shall be made impervious by the installation of buildings, structures, or paved surfaces."

In the alternative to the Special Permit requested pursuant to §240-93(B), the Applicant requests a Variance from Section 240-35(F)(3) *Lot coverage* in the Groundwater Protection Overlay District to allow 61.2% of the lot to be made impervious by the installation of buildings, structures, or paved surfaces.

- A modification of Special Permit No. 1997-23. This Conditional Use Special Permit was granted in 1997 to allow for retail sales in the HB District on the adjacent site (Border's). The Applicant is requesting to modify the permit conditions that require access from Route 132 to the project site to be closed. Those conditions appear to conflict with the Applicant's proposal for a new right-in only curb cut on Route 132.

The proposed right-in only entrance will be approximately 250 feet from the existing right-in/right-out entrance to the west of the Border's store. The access drive will continue through the site and connect with the southern-most access drive to the Southwind Plaza shopping center off of Independence Drive.

Comments and Analysis

Cape Cod Commission Review

The Cape Cod Commission reviewed the proposed development and concluded that the Development of Regional Impact decision issued for the Border's site on December 5, 1996 would need to be modified as a result of the vehicular, pedestrian, and loading interconnections proposed between the sites. The subject development does not qualify as a Development of Regional Impact by itself, as the proposed building is less than 10,000 square feet. On November 2, 2011, the Commission approved a modification of the Border's DRI Decision to allow for site and infrastructure changes made necessary by the subject development.

Site Plan Review

The Site Plan Review Committee approved the proposed development at a formal hearing on October 13, 2011. The Site Plan Review Coordinator issued a letter dated October 17, 2011 approving the proposed site plan.

Traffic Study

The Applicant submitted a traffic impact analysis and access study for the proposed development. The study was conducted by VHB, Inc. and uses ITE Trip Generation estimates, Cape Cod Commission seasonal adjustment factors, and traffic counts taken in July 2011 to estimate future conditions on a five-year horizon. The development is expected to generate an additional 270-350 vehicle trips per day. The analysis concludes that the proposed development will have minimal impact on intersection operations.

A site distance analysis was conducted for the proposed access drive. This analysis concludes that there is adequate stopping and intersection sight distance at the proposed driveway entrance. The finding supports that minimum distances have been provided to avoid collisions and prevent substantial reductions in speed due to turning vehicles.

The traffic analysis was reviewed by Growth Management Engineer Steven Seymour, who concurred with the conclusion that trip generation from the new development would have minimal impact on surrounding roadway conditions. Upon review of the plans, additional signage was recommended by the Site Plan Review Committee at the proposed access to discourage unauthorized left turns. Signage facing traffic approaching from the west and placed on the west side of the entrance driveway stating "No Left Turn" "Do Not Enter" is recommended.

Lot Coverage

The main portion of the Southwind Plaza shopping center was developed in 1986, prior to the adoption of the Groundwater Protection Overlay Districts. Ownership of the center, the Border's site and the project area were combined in 2007 after OCW Retail took control of the property. The resulting combined parcel is 31.1 acres. Today, approximately 16% of the property is covered with structures and another 40% is made impervious by parking areas, driveways, and other improvements. The total impervious surface area is 56.4%; the Groundwater Protection Overlay District limits impervious surface coverage to 50% of a lot in order to promote groundwater recharge.

The Applicant is proposing to increase the impervious surface coverage of the 31.1 acre lot by 4.8%, to a total of 61.2% of the lot. Of that increase, 12% is attributable to the building (8,050 sq.ft) and 88% to parking areas and drives (56,701 sq.ft).

The development proposal provides the minimum number of parking spaces required by the zoning code and the plan is in compliance with all landscaping and buffering requirements, including the 45-foot landscape buffer on Route 28. The applicant is also proposing to retain mature trees located at the rear of the site.

Conformance with Comprehensive Plan

The proposed development is located in a predominately commercial area, characterized by regional retail establishments and automobile-oriented development. The Town's Strategic Land Use Planning Map designates the area as a Regional Commercial Center. Route 132 is designated as a Traffic Management Corridor.

Zoning Compliance

The project area is located in the Highway Business, Business, and Industrial Zoning Districts. The developed portion of the site is located in the HB District. The proposed building is in compliance with all setback requirements. Based on the proposal to include two restaurants with up to 213 seats and two retail spaces, the development requires 103 parking spaces and 103 spaces are provided.

Landscaping along the street frontage, building foundation, and in parking areas has been provided in conformance with code requirements. Stormwater facilities and bio-retention areas are provided to retain all runoff on site.

Proposed 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:

Special Permits are requested pursuant to Section 240-25(C)(1) Conditional Uses to allow retail and restaurant uses in the Highway Business District and Section 240-93(B) Alteration/Expansion of a Preexisting Nonconforming Structure to allow for an expansion of the preexisting nonconforming lot coverage. Further, the Applicant requests to modify Special Permit No. 1997-23.
- That a site plan has been reviewed by the Site Plan Review Committee and found approvable.

The development proposal was approved by the Site Plan Review Committee on October 17, 2011.
- 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 240-25(C)(1) further requires the Board to find:

The use will not substantially or adversely affect the public health, safety, welfare, comfort or convenience of the community.

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

The proposed alterations and expansion of the non-conforming lot coverage will not be substantially more detrimental to the surrounding neighborhood.

Variance Findings

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

1. 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; and
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner;
3. The 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.

Suggested Conditions

Should the Board find to grant the relief requested in **Special Permit 2011-054**, it may wish to consider the following conditions:

1. Special Permit 2011-054 is granted to OCW Retail – Hyannis, LLC to allow retail and restaurant uses in 8,050 square foot building with up to four tenant spaces.
2. Special Permit 2011-054 also allows expansion of the property's preexisting nonconforming lot coverage from 56.4% to 61.2%.
3. Special Permit 2011-054 modifies Special Permit 1997-23 to allow a right-in only access from Iyannough Road/Route 132 to the proposed development. The right-in only access shall be permitted in addition to the existing right-in/right-out access that is located approximately 250 feet to the west. All other conditions of Special Permit 1997-23 shall remain in full force and effect.
4. The proposed retail/restaurant development shall be constructed in substantial conformance with the plans entitled "Southwind Plaza, 990 Iyannough Road & 65 Independence Drive, Hyannis, MA for OCW Retail – Hyannis, LLC c/o the Wilder Companies, Ltd" drawn and stamped by Baxter Nye Engineering and Surveying, dated October 6, 2011. Further the building shall be constructed in substantial conformance with the elevations entitled "Southwind Plaza, Hyannis, MA" for Wilder Companies by Allevato, dated October 6, 2011.
5. The development shall be in compliance with all conditions of the Site Plan Review Committee letter dated October 17, 2011.
6. Signage shall be installed at the new right-in only access as recommended by the Site Plan Review Committee to discourage unauthorized left turns.

7. Final building elevations and landscape plans shall be approved by the Growth Management Department Director prior to issuance of building permits.
8. 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 for the proposed development.

Should the Board choose to grant the alternative relief requested by **Variance 2011-055**, it may wish to consider including conditions No. 4, 5 and 8 listed above.

Copies: Applicant

Attachments: Applications

Project Narrative, Nutter McCennen & Fish, with attachments
Site Plan Review approval letter, October 17, 2011 (See Exhibit A)
Cape Cod Commission Border's DRI Modification, November 2, 2011 (See Exhibit B)
Special Permit No. 1997-23 (See Exhibit C)
Site Plans – drawn by Baxter Nye, dated 10/06/2011, Pgs. C0.0 – C7.2
Elevations – drawn by Allevato, dated 10/6/2011
Traffic Impact Analysis and Access Study – VHB, Inc., dated 10/4/2011
81X Plan of Land, Recorded in Plan Book 617, Page 35
Locus Map and Aerial Photo



Eliza Cox
Direct Line: (508) 790-5431
Fax: (508) 771-8079
E-mail: ecox@nutter.com

December 1, 2011
0110473-00001

By Hand Delivery

Zoning Board of Appeals
Town of Barnstable
200 Main Street
Hyannis, MA 02601

Re: Southwind Plaza, Route 132, Hyannis
Appeal Nos. 2011-054 and 2011-055

Dear Members of the Zoning Board of Appeals:

This letter is submitted on behalf of OCW Retail-Hyannis, LLC and The Wilder Companies in support of the above-referenced zoning applications which are scheduled for the December 14, 2011 Zoning Board of Appeals' hearing agenda. As detailed in the applications and project plans, and as more fully discussed herein below, OCW Retail-Hyannis, LLC, the owner of the subject property, is requesting special permits and, if necessary, a variance, in connection with its proposal to expand the Southwind Plaza shopping center by constructing a new, free-standing, commercial building along the subject property's Route 132 frontage.

Subject Property

The subject property, known as the Southwind Plaza, is an approximately 31 acre commercially-developed site with frontage on Route 132 to the south, Independence Drive to the east, and Attucks Lane to the north. The property is located within the Highway Business (HB), Business (B), and Industrial (IND) zoning districts. It is also located within the Groundwater Protection (GP) overlay district.

The property is developed as a shopping center with two detached structures, together containing approximately 218,000 square feet of commercial space. Prior to 2007, the property was comprised of several different lots, all of which were combined via a so-called section "81X" perimeter plan¹ that was recorded with the Barnstable County Registry of Deeds (the

¹ Pursuant to MGL c. 41, §81X.



“Registry”) in Plan Book 617, Page 35. The property is owned by the applicant, OCW Retail Hyannis, LLC².

The property is located within an “Economic Center” according to the Town-approved Regional Land Use Vision Map. “Economic Centers” are defined as “areas designated...as appropriate for growth and redevelopment.”³

Proposed Project

As depicted on the project plans, the Applicant proposes to expand the shopping center by constructing an approximately 8,050 square foot, single-story, detached commercial building in a previously cleared area along the property’s Route 132 frontage to the east of the former Border’s building. This new building will have space for up to 4 tenants, which are proposed to be a mix of restaurant and retail uses. A new right-in entrance-only is proposed off of Route 132 to provide access the new building, and a total of 103 parking spaces, the minimum required by the Zoning Ordinance, are also proposed. The proposed building and the parking fully comply with the setback and landscape requirements of the Zoning Ordinance.

The Applicant worked very closely with the Town’s Growth Management Department as the project plans were advanced prior to filing with the Town’s Site Plan Review Committee. As a result of this process, the architectural design and project’s access were refined, and significant interconnections were introduced into the layout to improve internal vehicular and pedestrian circulation. These include a new sidewalk along the south-side of the former Borders’ building connecting to the new development area as well as a new sidewalk on the north-side of the former Borders’ development leading into the project. Sidewalks are also introduced through the proposed parking lot. In addition, new vehicular interconnects are proposed between the former Borders’ building, and from the new development area to the existing Southwind Plaza access road (which provides access/egress to and from Independence Drive).

The Applicant also engaged Vanasse Hangen Brustlin, Inc., (VHB) to assess the proposed access and the transportation impacts of the proposed project. The scope of the report was prepared at the Town’s direction, and the report, which is dated October 4, 2011, was provided to both the Growth Management Department and to the Site Plan Review Committee. Copies of the report were also filed with the Zoning Board of Appeals as part of the project application materials. As indicated in the report, the project’s transportation impacts are minimal and the proposed access is safe and complies with all necessary sight distances; accordingly, the report confirms that no further improvements are necessary to accommodate the project.

² See deed recorded with the Registry in Book 22007, Page 284, and Certificate of Title No. 183030.

³ See the Definitions Appendix to the Cape Cod Commission’s Regional Policy Plan, Barnstable County Ordinance #08-14, dated effective January 16, 2009, last amended on May 20, 2011.



Zoning Board of Appeals
December 1, 2011
Page 3

Site Plan Review

The Applicant presented the project to the Barnstable Site Plan Review Committee (“Committee”) on October 13, 2011, at which time the Committee approved the project with conditions in accordance with Article IX of the Zoning Ordinance. A copy of the Committee’s approval is attached as Exhibit A to this memorandum.

Cape Cod Commission Permits

There are two (2) prior Cape Cod Commission development of regional impact (“DRI”) decisions affecting the consolidated Southwind Plaza property. The first DRI decision is dated December 16, 1993⁴, and it permitted an approximately 20,000 square foot addition to the back of the shopping center (in the area of what is currently the Old Navy / AC Moore tenant space). The second DRI decision is dated December 5, 1996⁵, and it approved the construction of a 25,000 square foot retail building (which was previously occupied by Borders Books) (hereafter, the “Borders Decision”).

Prior to the Site Plan Review filing, the Applicant also met informally with Cape Cod Commission staff to discuss the proposed project and the effect of these prior Cape Cod Commission decisions. The proposed construction, being under 10,000 square feet, does not exceed the Cape Cod Commission’s jurisdictional thresholds. As a result of those discussions with Cape Cod Commission staff, it was decided that the Borders Decision had to be modified to allow for the proposed sidewalk and vehicular interconnections to the new project area. The necessity for this modification is also reflected as a condition of the Site Plan Approval letter⁶. On November 2, 2011, the Cape Cod Commission issued the necessary modification of the Borders Decision, a copy of which is attached to this memorandum as Exhibit B.

Prior Zoning Board of Appeals Decision

There is an existing Zoning Board of Appeals’ decision, Appeal No. 1997-23, affecting the subject property⁷. This decision, which is dated March 12, 1997, permitted the construction of a 25,000 square foot retail building (i.e., the former Borders building) located to the west of the proposed project area. For the Board’s reference a copy of this decision is attached as Exhibit C (hereafter the “Existing ZBA Decision”). The Existing ZBA Decision also contains several conditions relative to accessing the Southwind Plaza property off of Route 132. As part

⁴ Cape Cod Commission Project No. TR930014

⁵ Cape Cod Commission Project No. TR960010

⁶ See 10th bullet point condition of the October 17, 2011 Site Plan Review Approval letter (attached as Exhibit A).

⁷ This decision was recorded with the Barnstable County Registry of Deeds in Book 10699, Page 186.



of this filing, the Applicant is proposing to amend the access conditions of the Existing ZBA Decision to permit the new Route 132 right-in, entrance-only proposed as part of the project.

Zoning Relief Requested

The Applicant has filed for special permit zoning relief for the proposed use of the building (including the new access) and to allow an increase in impervious coverage on the subject property in connection with the expansion. If necessary, and as an alternative to the special permit, the Applicant has also requested variance relief for the increase in impervious coverage. These requests are discussed below.

1. Use / Access

As shown on the plans, the project area is within the HB, B and IND zoned portions of the property. The proposed uses, restaurant and retail, are allowed as a matter of right in the B and IND zoning districts⁸, and are conditionally permitted uses within the HB zoned portion of the property⁹. Specifically, §240-25(C)(1)(a) of the Zoning Ordinance provides that uses allowed in the B district may be permitted in the HB zoning district by special permit provided such uses “do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.” (Emphasis supplied).

Consistent with the conditional use standard, the proposed project will not substantially adversely affect public health, safety, welfare, comfort or convenience of the community. As previously noted, the property is located within a designated Economic Center (i.e., an area mapped as appropriate for redevelopment and growth) by the region’s Land Use Vision Map. Accordingly, this is the right place for this type of development.

The Applicant’s traffic assessment demonstrates that the project’s transportation impacts are minimal – there are no safety concerns, the proposed access into the project area is safe and meets all necessary stopping distances, and the traffic generated by the project will not affect the Level of Service at any of the scoped signalized or un-signalized intersections. Moreover, as described above, the project includes vehicle and pedestrian interconnections between the proposed expansion and the rest of the shopping center, consistent with preferred transportation management and planning guidelines. Other pedestrian amenities, such as outdoor seating, are also incorporated into the project design and layout.

There are no substantial adverse environmental or public health impacts caused by the development. The project’s wastewater will be connected to and treated by the municipal sewer

⁸ See, respectively, §§240-21(A)(1) and (4) and 240-33(A)(1)(a) of the Zoning Ordinance.

⁹ See §240-25(C)(1) of the Zoning Ordinance.



system. There is adequate water capacity and flow for the project. And, the project's storm-water will be captured, infiltrated and treated on-site by two (2) new bio-retention areas. No work is proposed within 100 feet of any wetlands, and the development area is not mapped for any rare or endangered species.

Visually, the project will not have any substantial adverse impacts on the community character of the streetscape. The project is proposed in an area that has already been previously cleared. And, significant landscaping is proposed along the Route 132 frontage between the proposed building and the roadway, and also to the sides and rear of the project area. The architectural design of the building has been reviewed by the Town's Growth Management Department and it provides for variations of materials and setbacks within the building's façade.

Moreover, the investment of capital into this property will serve to benefit the Town of Barnstable. In this down-economy, particularly as the overall taxable value of commercial property in the Town of Barnstable declines¹⁰, the investment of dollars into the Town's major commercial plazas should be encouraged. This project will increase the value of the Southwind Plaza thereby generating additional revenue to the Town. Of note, in Fiscal Year 2011, the Applicant, as owner of the Southwind Plaza property, was the 9th highest tax payer in the Town of Barnstable.

By siting the new building alongside the Plaza's main Route 132 frontage, this project is also intended to increase the visibility of shopping center. Because of the unique shape of the property, with limited frontage (and restricted access) on Route 132, the visibility of (and access to) the shopping center is constrained from Route 132. This new building will help improve that condition. This, in turn, generates customers and assists the Applicant in filling vacancies that exist within the Plaza. Further, the proposed restaurant space will also enhance the community's convenience and comfort by providing additional restaurant options within this major commercial center. Ensuring the vitality and health of the Town's major commercial shopping centers, like the Southwind Plaza, is of critical importance to the overall public good, character and convenience of the community.

Based on the foregoing, the project will not substantially adversely affect the public health, safety, welfare, comfort and convenience of the community, and instead, will benefit the Town. As such, the requested special permit relief for the use, and modification of the Existing ZBA Decision to allow the new access, may be appropriately granted in accordance with the requirements of §240-25(C)(1)(a) of the Zoning Ordinance.

¹⁰ According to the Town Assessor's November 3, 2011 "Proposition 2 ½ and Tax Levy Shifting Options" presentation on November 17, 2011 to the Barnstable Town Council, the total taxable value of commercial/industrial/personal property has declined when compared to the prior fiscal year.



2. Increased Impervious Coverage

With an existing impervious coverage of approximately 56.4%, the Southwind Plaza property is pre-existing, non-conforming to the 50% maximum site (impervious) coverage requirements of the GP overlay district. According to the Town's assessor's information, the Plaza was developed in 1986 and therefore pre-dated the adoption of the GP in 1987. The proposed improvements will increase the impervious coverage on the property by approximately 64,750 square feet, resulting in a total site-wide impervious site coverage of approximately 61.2%.

The Applicant is requesting special permit relief pursuant to §240-93(B) of the Zoning Ordinance to allow for the increase in coverage. Section 240-93(B) states that special permit relief may be granted to allow for an expansion of a legal pre-existing non-conformity provided that it is not "substantially more detrimental to the surrounding neighborhood."

Allowing the proposed increase in site coverage will not be substantially more detrimental to the neighborhood. Indeed, with a proposed coverage of 61.2%, the subject property will still have significantly less impervious coverage than many of the nearby properties within the same overlay district. By way of example, the impervious coverage for the immediately abutting property to the west, addressed 1020 Iyannough Road, is 72%¹¹. In addition, the Shopping Center Redevelopment Overlay District, which is located almost directly across Route 132 from the subject property and within the exact same groundwater protection overlay district, allows, *as a matter of right*, 70% impervious coverage¹². To not permit the Southwind Plaza property the same coverage allowance as another shopping center located almost directly across the street is a significant hardship. Furthermore, since both properties are located within the exact same groundwater overlay district, there can be no valid justification for this disparity which adversely affects the subject property. Accordingly, the additional coverage requested by the Applicant for the project cannot be deemed to be substantially more detrimental to the surrounding neighborhood.

As previously noted, the Applicant has also filed, in the alternative, for variance relief to allow for the 61.2% impervious coverage. As shown on the project plans, the subject property is uniquely shaped. It is a long and relatively narrow property with limited exposure on the major roadways. There are also unique soil conditions, namely two wetlands, on the property that affect where structures can be located. Because these wetlands are close to the property's Independence Drive frontage, it necessitates that all development be further away from

¹¹ See Town of Barnstable Zoning Board of Appeals' Special Permit in Appeal No. 1997-61, dated June 20, 1997, recorded with the Registry in Book 10860, Page 262.

¹² See §240-39(I)(1) of the Zoning Ordinance. This section even allows up to 82.7% impervious coverage with off-site mitigation.



Zoning Board of Appeals
December 1, 2011
Page 7

Independence Drive thereby limiting the shopping center's visibility. Finally, the unique shape and soil conditions, together with the access restrictions (medians) on all of the abutting roadways, create a substantial hardship for the Applicant, particularly when compared to the other major shopping plazas in the immediate vicinity.

Because of these unique circumstances affecting the property, not permitting the additional impervious coverage which is necessary to enhance the visibility of the Southwind Plaza along the major commercial thoroughfare is a very significant hardship. Also, as noted above, permitting the Shopping Center Redevelopment Overlay District (located almost directly across the street and within the exact same groundwater overlay district) significantly increased impervious coverage is an additional significant hardship and puts this plaza at a substantial economic disadvantage. Finally, for the reasons previously noted, desirable relief may be granted to allow for 61.2% impervious coverage without substantial detriment to the public good and without substantial derogation from the Zoning Ordinance. Therefore, if deemed necessary, variance relief from the 50% maximum impervious coverage may be lawfully granted.

Conclusion

The Applicant has worked diligently and closely with the Town during the development phase of this project and has designed the project so that it will have minimal impacts on the surrounding neighborhood. The project has been sited to comply with all of the setback requirements of the Zoning Ordinance and it is located in an area that has been designated by the Town and the Cape Cod Commission as an Economic Center, appropriate for this type of development. Therefore, on behalf of the Applicant, I respectfully ask that the requested special permit and, if necessary, variance relief be granted to enable the proposed expansion of the Southwind Plaza shopping center.

We look forward to presenting this project to the Board at the December 14, 2011 public hearing. Thank you very much for your consideration.

Very truly yours,

Eliza Cox

EZC:

Attachments

cc: Kelli Burke, The Wilder Companies
Matthew Eddy, Baxter Nye Engineering & Surveying
Randy Hart, VHB

2059882.1

BARNSTABLE
TOWN CLERK



11 OCT 18 P12:59

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

Date Received
Town Clerk's Office:

For office use only:
Appeal # 2011-054
Hearing Date _____
Days Extended _____
Decision Due 03/13/12

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 Name: OCW Retail-Hyannis, LLC, Phone: _____

Petitioner's Address: c/o The Wilder Companies, Ltd., 800 Boylston Street, Suite 1300, Boston, MA 02199

Property Location: 990 Iyannough Rd. (Rte. 132) & 65 Independence Drive, Hyannis, MA

Property Owner: OCW Retail-Hyannis, LLC, Phone: _____

Address of Owner: c/o The Wilder Companies, Ltd., 800 Boylston St., Suite 1300, Boston, MA 02199
If applicant differs from owner, state nature of interest.²

Registry of Deeds/Land Court References: Deed Bk. 22007, Pg. 284 Plan Book 617, Pg. 35
Gtf # 183030
295/015-X02

Assessor's Map/Parcel Number: 294/004 Zoning District: HB, B and IND

Number of Years Owned: 4+ years Groundwater Overlay District: GP

1. Section 240-25(c)(1), Conditional Use in HB District

Special Permit Requested: 2. Section 240-93(B), Alteration/Expansion of Nonconforming Building
Cite Section & Title from the Zoning Ordinance or Structure

3. Modification of Special Permit No. 1997-23 to permit proposed entrance-only onto Route 132

Description of Activity/Reason for Request: See attached sheet

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special PermitNo [] Yes - _____

Permit # 1997-23

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): Please see addendum

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): Shopping Center

Existing Gross Floor Area: 218,000 sq. ft. Proposed New Gross Floor Area: 8,050 sq. ft. new building

Site Plan Review Number: 025-11 Date Approved: 10/13/11 (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 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: Eliza Cox Date: 10/17/2011
Applicant's or Representative's Signature³

Print Name Eliza Cox, Esq.

Address: Nutter, McClellan & Fish, LLP Phone: 508-790-5431
P.O. Box 1630, Hyannis, MA 02601 Fax No.: 508-771-8079

e-mail Address: ecox@nutter.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.

BARNSTABLE
TOWN CLERK



11 OCT 18 P12:59

Town of Barnstable
Zoning Board of Appeals
Application for a Variance

Date Received
Town Clerk's Office:

For office use only:
Appeal # 2011-053
Hearing Date
Decision Due 01/26/12

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

Applicant's Name:¹ OCW Retail-Hyannis, LLC, Phone: _____

Applicant's Address: c/o The Wilder Companies, Ltd., 800 Boylston St., Ste. 1300, Boston, MA 02199

Property Location: 990 Iyannough Rd. (Rte. 132) and 65 Independence Dr., Hyannis

Property Owner: OCW Retail-Hyannis, LLC, Phone: _____

Address of Owner: c/o The Wilder Companies, Ltd., 800 Boylston St., Ste. 1300, Boston, MA 02199
If petitioner differs from owner, state nature of interest:² _____

Bk. 22007, Pg. 284

Registry of Deeds/Land Court References: Deed Ctf. #183030 Plan Book 617, Page 35

295/015-X02

Assessor's Map/Parcel Number: 294/004 Zoning District: HB, B and IND

Number of Years Owned: 4+ years Groundwater Overlay District: GP

Variance Requested: 240-35(F)(3), Lot Coverage in GP Overlay District

Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: See attached sheet

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [] Yes]

Permit #: 1997-23

¹ The Applicant's Name will be the entity to whom the variance 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.

Application for a Variance - Page 2

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): Shopping Center

Existing Gross Floor Area: 218,000 sq. ft. Proposed New Gross Floor Area: 8,050 sq. ft new building

Site Plan Review Number: 025-11 Date Approved 10/13/11 (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 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: Eliza Cox Date: 10/17/11
Applicant or Representative's Signature³

Print Name Eliza Cox, Esq.

Address: Nutter, McClellan & Fish, LLP Phone: 508-790-5431
P.O. Box 1630, Hyannis, MA 02601 Fax No.: 508-771-8079

e-mail Address: ecox@nutter.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 Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

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



Appeal No. 2011-053 - Holthouse

Variance to Section 240-11 (E) – Minimum Side Yard Setback Requirements

To construct an addition 4.2 feet from the side lot line

Date: December 7, 2011
To: Zoning Board of Appeals
From: Elizabeth Jenkins, Principal Planner

Petitioner: Rachel Holthouse
Property Address: 13 Laura Road, Centerville
Assessor's Map/Parcel: 251 113
Zoning: Residence D-1, Resource Protection Overlay District
Groundwater Protection Overlay District

Filed: October 18, 2011

Hearing: December 14, 2011

Decision Due: January 26, 2012

Copy of Public Notice

Rachel Holthouse has petitioned for a Variance to Section 240-11 E – Bulk Regulations, Minimum Side Yard Setback. The petitioner is proposing to construct an addition to the existing single-family dwelling, consisting of an attached garage and living area proposed for use as a family apartment. The addition will be located 4.2 feet from the side property line, where a minimum 10 foot side yard setback is required. The property is located at 13 Laura Road, Centerville, MA as shown on Assessor's Map 251 as Parcel 113. It is in the Residence D-1 Zoning District.

Relief Requested and Background

In Appeal 2011-053, Rachel Holthouse has petitioned for a variance from the minimum side yard setback requirements in the RD-1 district. She proposes to construct an addition to her single-family home, consisting of a garage with a second-floor family apartment. The addition is proposed to be located 4.2 feet from the property line at its nearest point, where the RD-1 District requires a minimum side yard setback of 10 feet.

The subject property is 13 Laura Road in Centerville, located off Phinney's Lane near Lake Wequaquet. It is a 10,000 square foot lot on a short dead-end street. The property is developed with a 1.5 story Cape Cod house with 1,656 square feet of living area.

The proposed addition has a 25' x 32' footprint. The first floor is proposed to be a garage and the second floor is proposed to be finished with a family apartment for the Petitioner's mother. The proposed apartment is 800 square feet in area and attached to the principal dwelling, thus it may be permitted without the need for further relief. The setback of the proposed addition varies from 4.2 feet to 12 feet from the western side property line. A rear second-story deck is also proposed to provide alternative means of egress from the apartment.

Staff Comments

- The parcel immediately adjacent to the subject property on the west, nearest to the proposed addition, is vacant and owned by the Town. The Assessor's record indicates it is managed by the Recreation Division. The vacant parcel is 10,000 sq.ft in area.
- The addition would increase building coverage on the lot to approximately 18.2 percent.
- The existing septic system is sized for a total of four bedrooms. The house currently has four bedrooms. The Petitioner proposes to convert one downstairs bedroom into a den to accommodate the family apartment.
- The septic system is located in the rear of the lot, limiting the Petitioner's ability to expand the dwelling inside the building envelope.
- The property is located within the Groundwater Protection Overlay District and the Interim Zone of Contribution to Saltwater Estuaries.

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. To grant a variance, the Zoning Board is required to make specific findings to support that each of the three statutory requirements have been met. The statutory requirements are:

1. **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; and**
2. **A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner;**
3. **The 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 automatically confer the right to a variance. The Board still has the discretionary power to grant or not grant the variance.

Suggested Conditions

If the Board should find to grant the variance to Section 240-11(E), it may wish to consider the following conditions:

1. This variance from Section 240-11(E) Bulk Regulations – Minimum Side Yard Setback Requirement is issued for property located at 13 Laura Lane, Centerville to allow an addition to be constructed 4.2 feet from the side property line.
2. The addition shall be constructed in substantial conformance with the plans entitled "Proposed Addition for Rachel Holthouse", drawn by Ryder & Wilcox, dated October 4, 2011.
3. The number of bedrooms on the property shall be limited to four.
4. All parking for the primary dwelling and family apartment shall be located on-site.

5. The family apartment shall be in compliance with all requirements of Section 240-41.1.
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 for the addition. The rights authorized by this variance must be exercised within one year, unless extended.

Copies: Applicant

Attachments: Application
 Certified Plot Plan
 Floor Plan and Elevations, Ryder & Wilcox, 10-4-11
 Aerial Photo
 Deed

Für das Praktikum ist eine Einschätzung der Prüfungsaufgaben nicht vorgesehen. Es kann jedoch eine allgemeine Aussage über die Verteilung der Prüfungsaufgaben im Rahmen des Abschlusses des Betriebswirtschaftsstudiums getroffen werden. Die Verteilung der Prüfungsaufgaben ist abhängig von der Art und Weise der Betriebswirtschaftsstudien. In der Regel sind die Prüfungsaufgaben in folgenden Bereichen unterteilt:

Wirtschaftswissenschaft	Betriebswirtschaft
• Mikroökonomie • Makroökonomie • Betriebswirtschaftliche Grundlagen • Betriebswirtschaftliche Methoden • Betriebswirtschaftliche Praktikum	• Betriebswirtschaft • Betriebswirtschaftliche Grundlagen • Betriebswirtschaftliche Methoden • Betriebswirtschaftliche Praktikum

BARNSTABLE
TOWN CLERK

11 OCT 18 P1:26



Town of Barnstable
Zoning Board of Appeals
Application for a Variance

Date Received

Town Clerk's Office:

For office use only:

Appeal # 2011-053

Hearing Date _____

Decision Due _____

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

Applicant's Name:¹ Rachel Holthouse, Phone: 774-238-0057

Applicant's Address: 13 Laura Road Centerville Ma 02632

Property Location: 13 Laura Road Centerville Ma 02632

Property Owner: Rachel Holthouse, Phone: 774-238-0057

Address of Owner: 13 Laura Road Centerville Ma 02632

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

Registry of Deeds/Land Court References: Deed 14 30367-A Plan _____

Assessor's Map/Parcel Number: 251/113 Zoning District: RD-1

Number of Years Owned: 8 years Groundwater Overlay District: GP

Variance Requested: 240-11-E Bulk Regulation side yard set back
Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: see attached

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [✓] Yes []

Permit #: _____

¹ The Applicant's Name will be the entity to whom the variance 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.

Application for a Variance - Page 2

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

Present Use(s): Single Family

Existing Gross Floor Area: 1656 sq. ft. Proposed New Gross Floor Area: 800 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 [] No []

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

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

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 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: Rachel Holthouse Date: Oct 11, 2011
Applicant or Representative's Signature³

Print Name Rachel Holthouse

Address: 13 Laura Road Phone: 774-238-0057

Centerville Ma 02632 Fax No.: _____

e-mail Address: rajinteriors@yahoo.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 Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

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



Special Permit 2011-056 – Weber

Section 240-94(A) – Change of a Nonconforming Use to another Nonconforming Use

To change a two-family dwelling to two detached dwelling units

Date: December 7, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner

Petitioner: **Donna and Jeff Weber**
Property Address: 118 Scudder Avenue, Hyannis
Assessor's Map/Parcel: Map 289 Parcel 045
Zoning: Residence B District, WP Overlay District

Filed: November 7, 2011

Hearing: December 14, 2011

Decision Due: February 7, 2012

Copy of Public Notice

Donna and Jeff Weber have applied for a Special Permit pursuant to Section 240-94(A) – Change of a nonconforming use to another nonconforming use. The Petitioner is proposing to convert a pre-existing nonconforming two-family dwelling to a single-family dwelling and restore a detached single-family apartment on the rear of the lot. The resulting nonconformity would be two single-family dwellings on one lot. The property is located at 118 Scudder Avenue, Hyannis, MA as shown on Assessor's Map 289 as Parcel 045. It is in the Residence B Zoning District.

Background

Donna and Jeff Weber are the owners of a 1.04 acre property on Scudder Avenue, south of the West End Rotary in Hyannis. The parcel is developed with a residence currently used as a two-family dwelling and a second freestanding building on the rear of the property. The Weber's purchased the property in 2004.¹

The principal residence was built in 1925. According to the Assessor's record, it is a two-story, 2095 sq.ft house with a total of four bedrooms. The commencement of the two-family use on the property is unclear. Two-family dwelling units became a non-conforming use on the property in 1956, when the area was rezoned to Residence A-1, and two-family uses were only allowed by Special Permit. In 1972, option to establish a two-family use by Special Permit was eliminated all together. The Applicant submitted inspection forms from the Building Division dated 2000 that appear to indicate that the Building Division recognized multiple units on the property. The Applicants have registered "Unit No. 2" on the property with the Health Division's rental registration program since its inception in 2006.

The second structure on the property is a two-story "carriage house". The building is not listed in the Assessor's database, but older town records suggest it was constructed in 1930. The applicant indicates the structure is approximately 800 square feet in area. Prior to the Petitioner's

¹ In 2011, The Weber's granted Sturgis Public Charter School an easement for secondary access to the new school site west of the West End Rotary.

ownership, there was a dwelling unit in the carriage house. The Petitioner's concede that the use of the structure for residential purposes has been abandoned. The building also appears to be nonconforming in terms of setback.

Relief Requested

In appeal 2011-052, Donna and Jeff Weber propose to change the non-conforming two-family use on the property into two separate dwelling units on the property. The Webers are proposing to convert the principal building to a single-family residential dwelling by removing one kitchen and a second private entrance into the dwelling. The Petitioner then proposes to establish a second dwelling unit on the second floor of the carriage house. The existing carriage house will be refurbished to accommodate the new unit. No physical expansion of either structure is proposed.

A deed recorded in Book 18984 Page 142 provides standing for the Petitioner to make application to the Board.

Staff Comments

- The property is currently served by a septic system; a 2004 septic permit indicates the property has a septic tank sized for five bedrooms. The property is scheduled to be connected to Town Sewer as part of the Stewart's Creek sewer expansion project. To date, sewer mains and stubs to the property line have been installed, but there have been no connections to individual units. According to the Petitioner, the Department of Public Works indicated that two sewer hook-ups would be made available to serve the property. Initial design plans indicate only one sewer stub to the property; however, DPW did confirm that two detached units could both be individually connected if the required infrastructure, namely the grinder pump, was appropriately sized.

Dale Saad, DPW Senior Project Manager, indicated to GMD staff she had spoken to the Applicant about multiple connections on the property. Ms. Saad stated the applicant had expressed interest in having a second connection to the "carriage house", but did not indicate it would be for a separate dwelling unit. The Board should note that each dwelling unit is required to have its own sewer connection and betterments must be paid for each dwelling unit that will connect.

- To find that the application falls within a category excepted in the ordinance for grant of a special permit, the Board must find that the Petitioner has a legal preexisting nonconforming two-family use. While there is some indication the Town may have recognized the two-family use of the property, the use would have to have been established prior to the zoning change in 1956 to be legal preexisting nonconforming.
- The subject property is in the Wellhead Protection Overlay District and is in an area tributary to Stewart's Creek, an area sensitive to nitrogen loading. The connection of properties in this area to Town sewer is meant to lessen the impacts of the nitrogen loading from wastewater disposal on the Town's water resources. Should the Board choose to consider the permit, the Board may wish to limit the total number of bedrooms on the property to five, the same number that the septic system is currently sized for.

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 240-94(A) allows for a preexisting nonconforming use to be changed to another nonconforming use by special permit.
- Site Plan Review is not required for alteration or expansion of a single- or two-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 240-94(A) further requires the Board to find:

- The proposed nonconforming use is no more detrimental to the neighborhood than the existing nonconforming use.
- The applicant has received all necessary approvals from the Board of Health.

The Department of Public works confirmed that two units could be individually connected to Town sewer if the required connection infrastructure, such as the grinder pump, is appropriately sized. DPW also requires a sewer connection, and associated betterment, for each dwelling unit.

- The following requirements have been met or are not applicable to the subject request:

The proposed nonconforming use:

- a. Requires no more parking than the previous use;
- b. Does not generate more traffic than the previous use, as measured by the Institute of Transportation Engineers Trip Generation Handbook or other sources acceptable to the Zoning Board of Appeals, nor does it cause Town expenditures to address traffic mitigation measures;
- c. Does not result in an increase of on-site and off-site noise, dust, and odors;
- d. Does not result in an increase in the hours of operation or in the number of tenants or employees;
- e. Does not expand the gross floor area of the nonconforming use, except as may be provided in § 240-93B, nor does it increase the number of nonconforming uses on a site;
- f. Is on the same lot as occupied by the nonconforming use on the date it became nonconforming; and
- g. Is not expanded beyond the zoning district in existence on the date it became nonconforming.

Suggested Conditions

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

1. Special Permit 2011-054 is granted to Donna and Jeff Weber pursuant to Section 240-94(A) to allow a change in a preexisting nonconforming two-family use into two single-family units on one lot at 118 Scudder Ave, Hyannis.

2. There shall be one dwelling unit in the principal structure and one dwelling unit on the second story of the carriage house on the property.
3. An occupancy permit for the establishment of a second unit in the carriage house shall not be issued until the kitchen facilities and second private entrance in the main dwelling have been removed.
4. Expansion of the uses or structures is prohibited without further relief from this Board.
5. The total number of bedrooms on the property shall not exceed five.
6. When available, both units on the property shall be connected to sanitary sewer. Each unit shall have its own sewer connection and a betterment shall be paid for each unit.
7. All parking for the dwelling units shall be provided on-site.
8. 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
 Plot Plan
 Building Division records (submitted by Applicant)
 Aerial Photo and Assessor's Record
 Deed



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

BARNSTABLE
TOWN CLERK

11

NOV -7

906

For office use only:
Appeal # 2011-056
Hearing Date 12/14/11
Days Extended _____
Decision Due _____

Date Received
Town Clerk's Office:

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 Name: Donna and Jeff Weber, Phone: 508-778-0687
Petitioner's Address: 118 Scudder Ave Hyannis MA 02601

Property Location: see above

Property Owner: _____, Phone: _____

Address of Owner: _____

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

book 18984-142
Registry of Deeds/Land Court References: Deed _____ Plan _____

Assessor's Map/Parcel Number: 289/045 zoning District: R B

Number of Years Owned: 8 Groundwater Overlay District: no

Special Permit Requested: 24094 A

Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: change main house back to one family, restore apartment in barn out back

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No [X] 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): rehabbing carriage house, electrical
plumbing, heating) removing separate entrance in front house, removing upstairs kit. Attach additional sheet if necessary see attached if necessary

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): primary residence two family and workshop in back

Existing Gross Floor Area: 2400 sq. ft. Proposed New Gross Floor Area: 2400 sq. ft.
Carriage house 800

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

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

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

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

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 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: D Weber Date: 11/4/11
Applicant's or Representative's Signature³

Print Name: Donna Weber

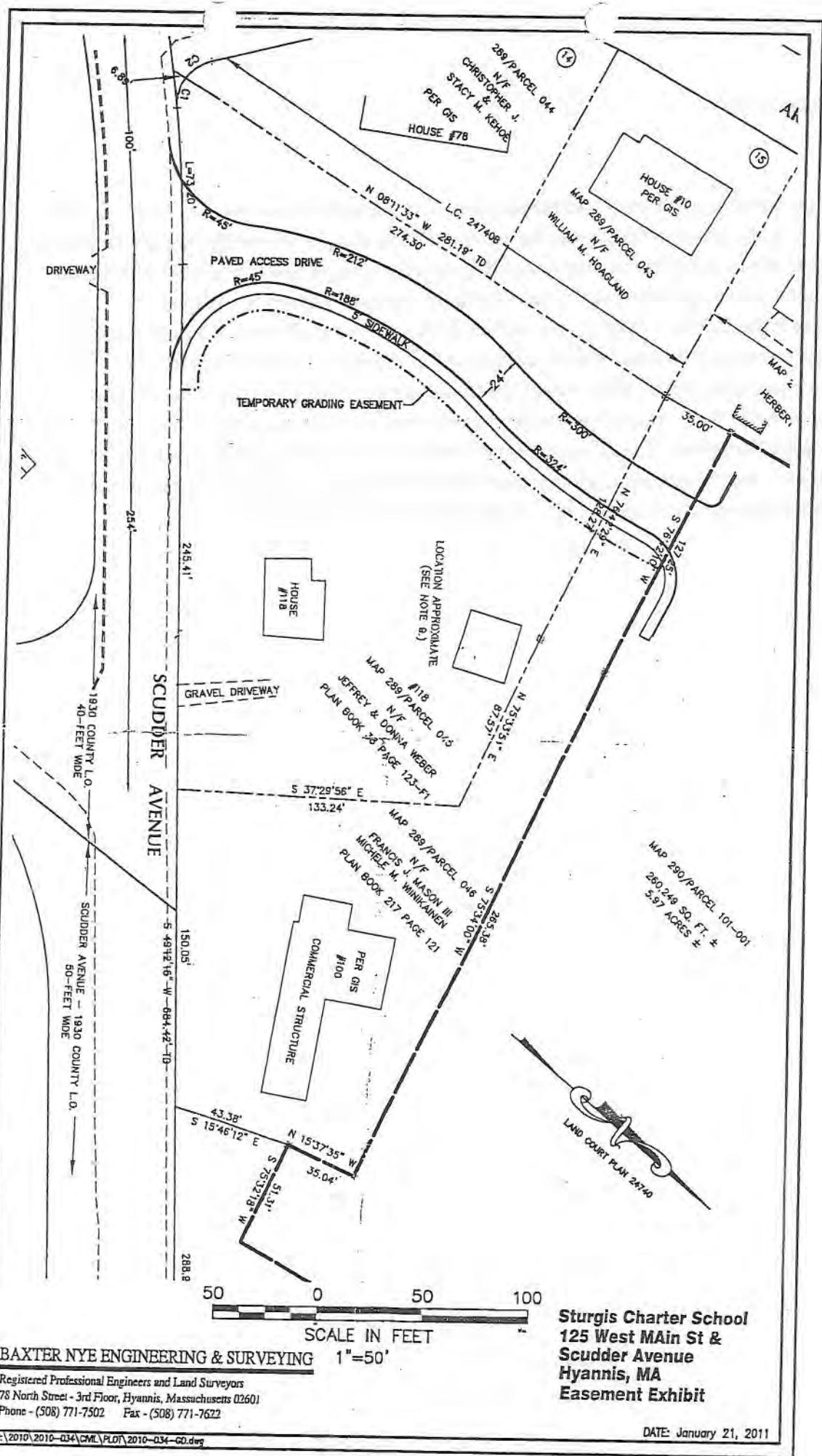
Address: 118 Scudder Ave Phone: 508 778 0687
Ilyanakis MA 02640 Fax No.: 978-552-2451

e-mail Address: dweber34350@comcast.net

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.

To Whom It May Concern:

We, Jeff and Donna Weber, currently own the property at 118 Scudder Ave in Hyannis. There is a non conforming two family house in the front and a non conforming abandoned one family apartment in the back. We would like to transform the non conforming rights to turn the two family home which is our primary residence, into a one family home, and restore the one family apartment in the back. The current building in the back is in rough shape, and will fall down eventually without any rehabilitation. We would hate to have this happen. We are currently in the Stewarts Creek project and have two sewer hook ups on the property, one on either side of the house. We are seeking relief to have two single family units on one lot. Below is some supporting documentation. There is a letter to the former homeowner dated September 12, 2000 requesting a Certificate of Inspection application for three units. There is a plot plan, and third, there is another letter dated December 20, 2000 stating that at one time, there was a unit in the back "carriage house". Thank you for your consideration.



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



Comprehensive Permit 2005-013 – Mill Pond Estates

Minor Modification Request – Transfer Permit

Date: December 7, 2011
To: Zoning Board of Appeals
From: Elizabeth S. Jenkins, Principal Planner
Petitioner: Osterville Landing, LLC
Property Address: 449-459 Old Mill Road, Osterville
Assessor's Map/Parcel: 143/040 and 166/001
Zoning: Residence C, RPOD

Background

On April 20, 2005, the Zoning Board of Appeals issued Comprehensive Permit 2005-013 to Starboard, LLC for the development of "Mill Pond Estates", an affordable housing development sponsored under the Town's Local Initiative Program. The Comprehensive Permit authorizes the division of 2.8 acres on Old Mill Road in Osterville for the development of 11 single-family dwelling units, three of which are to be designated as affordable units pursuant to MGL Chapter 40B. Two lots in the development are to be held in common ownership by the homeowners and are to contain a shared wastewater treatment/disposal system and stormwater infrastructure. The development is accessed by Darby Way, a private drive.

In January 2006, a minor modification was approved to Condition No. 29, clarifying that the Comprehensive Permit could be used as collateral assignment in funding the development.

In 2009, there application was made to the Board to transfer and modify the Comprehensive Permit. Although modifications were approved by the Board, they were never executed. The P&S was acted upon and the approved modifications were never recorded. The 2005 Comprehensive Permit remains the subject of this application.

Installation of infrastructure, including roadway and drainage improvements, has been commenced on the site.

Requested Modification and Procedural Requirements

On November 28, 2011, the Zoning Board received a letter from Attorney John Kenney requesting a minor modification of Comprehensive Permit 2005-013. The request is to transfer the comprehensive permit from Starboard, LLC to Osterville Landing, LLC.

Procedural Requirements

In accordance with 760 CMR 56.05(11) – Changes After Issuance of a Permit – the Board must determine, within 20 days of receipt of a request to modify a comprehensive permit, if the proposed change is substantial or insubstantial.

If the change is determined to be insubstantial, "the Comprehensive Permit shall be deemed modified to incorporate the change."

If the change is determined to be substantial, the Board is required to hold a public hearing on the proposed change within 30 days.

Section 760 CMR 56.05(12) addresses transfer of permits. This section specifies that the transfer of a permit shall not, by itself, constitute a substantial change, and therefore the Board can issue the modification as a minor request. That section further requires written confirmation from the Subsidizing Agency that the transferee is an eligible non-profit organization or Limited Dividend Organization and that the project continues to be fundable by a subsidizing agency under a low or moderate income subsidy program.

Condition No. 39 of Comprehensive Permit 2005-013 also requires prior approval of the Board for a transfer. That condition reads:

This Comprehensive Permit shall not be transferable to a person or other entity other than the Applicant without prior written approval of this Board.

Requested Modification

In support of the request to transfer the permit, the Applicant has submitted a deed establishing ownership of the subject property by Osterville Landing, LLC. A Certificate of Organization establishes that Osterville Landing, LLC is a Limited Liability Company and an Operating Agreement confirms the company was formed for the purposes of qualifying as a Limited Dividend Organization under Chapter 40B.

A letter from DHCD, received on August 11, 2011, makes the required findings that Osterville Landing, LLC is an eligible applicant and that the project will continue to be fundable under the Local Initiative Program, pursuant to 760 CMR 56.04(1)(a) and (b).

As a condition of DHCD's approval of the transfer, Osterville Landing, LLC is required to amend and restate the Regulatory Agreement to incorporate the current requirements of M.G.L. Chapter 40B. The Applicant has indicated their intention to submit an additional request to modify the permit for the purposes of bringing it into conformance with the amended 40B regulations and to revise the house plans to be consistent with current market conditions.

Staff Review

The condition for prior written approval from the Board to transfer the permit is typical of most Comprehensive Permits. The condition allows the Board the opportunity to consider the applicant's experience with 40B housing development and awareness of the procedural requirements. In considering the request, the Board may wish to note that Osterville Landing, LLC is managed by Brian Dacey. Mr. Dacey has prior experience with 40B projects in the Town of Barnstable, namely the successfully established 124-unit Cotuit Meadows development.

Brian Dacey appeared before the Housing Committee on May 17, 2011 to discuss the purchase and his intentions for the development. The Committee voted unanimously to support the Osterville Landing project proposed by Mr. Dacey.

Proposed Findings

1. Condition No. 39 of Comprehensive Permit 2005-013 requires prior approval of the Board for the transfer of the permit.

2. Section 760 CMR 56.05(12) states that "the transfer of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4)."
3. Section 760 CMR 56.05(12) requires written confirmation from the Subsidizing Agency that the transferee meets the requirements of 760 CMR 56.04 (1)(a) and (b). A letter dated August 11, 2011 from DHCD verifies that the new owner, Osterville Landing, LLC, meetings those requirements.

Suggested Conditions

Based upon the findings that the proposed transfer request is insubstantial, the request received by the Board on November 28, 2011 is granted, allowing the transfer of Comprehensive Permit 2005-013 from Starboard, LLC to Osterville Landing, LLC, a domestic limited liability company organized in Massachusetts, with Brian T. Dacey as manager.

1. The Applicant shall be responsible for recording any new or amended Regulatory Agreement and Monitoring Services Agreement as may be necessary and consistent with the permit. Copies of those recorded documents shall be submitted to the Board's file.
2. All conditions of Comprehensive Permit 2005-013 and the clarification issued January 2006 shall remain in full force and effect. The only modification of the permit approved herein shall be the transfer to Osterville Landing, LLC.

Copies: Applicant

Attachments: Request for transfer, John Kenny, 11/22/2011
Osterville Landing, LLC Deed
Osterville Landing, LLC Certificate of Organization & Operating agreement (partial)
Letter from Housing Committee Chair, 12/01/11 & Housing Committee Minutes, 05/17/11
Letter from DHCD, 08/11/11
Comprehensive Permit 2005-013

JOHN W. KENNEY
ATTORNEY AT LAW
12 CENTER PLACE
1550 FALMOUTH ROAD
CENTERVILLE, MASSACHUSETTS 02632
PHONE: 508-771-9300
FAX: 508-775-6029

November 22, 2011

Laura Shufelt, Chairperson
Town of Barnstable
Zoning Board of Appeals
200 Main Street
Hyannis, Massachusetts 02601

Re: Starboard, LLC "Mill Pond Estates"
459 & 449 Old Mill Road, Osterville
Appeal No. 2005-013

Dear Ms. Shufelt:

Please allow this letter to serve as a request for a Minor Modification of the Comprehensive Permit Decision issued in Appeal Number 2005-013 to allow for the transfer of the Comprehensive Permit from Starboard, LLC to Osterville Landing, LLC. Please place this matter on the agenda for your meeting scheduled for December 14, 2011.

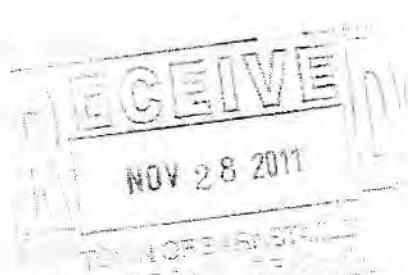
Enclosed please find a copy of the Deed into Osterville Landing, LLC; a copy of the Certificate of Organization for Osterville Landing, LLC; and a copy of the Operating Agreement for Osterville Landing, LLC showing it is a Limited Dividend Organization to establish its standing for this request (see Paragraph 2.8).

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

J.W. K
John W. Kenney

JWK/mmc
Enclosures



11-08-2010 a 01:58p

QUITCLAIM DEED

STARBOARD, LLC, a Massachusetts limited liability company, having an address of 29 Crapo Street, Marion, Massachusetts 02737

for consideration paid in the amount of **FIVE HUNDRED SIXTY-SIX THOUSAND FIVE HUNDRED AND 00/100 (\$566,500.00) DOLLARS**

grant to **OSTERVILLE LANDING, LLC**, a Massachusetts limited liability company, having an address of 1645 Falmouth Road, Centerville, Massachusetts 02632

with *Quitclaim Covenants*

The land together with the improvements now or hereafter located thereon situated at 449 and 459 Old Mill Road, Barnstable (Osterville), Barnstable County, Massachusetts, described as follows:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 and the fee in Darby Way all as shown on a plan of land entitled: "LOT LAYOUT PLAN MILL POND ESTATES OSTERVILLE, MASSACHUSETTS" dated October 12, 2005 and recorded with the Barnstable County Registry of Deeds in Plan Book 606, Page 27.

This conveyance is made subject to any easements to utility companies, including but not limited to water easements, electric easements, natural gas easements and other rights and easements of record.

This conveyance is made further subject to the terms and conditions contained in a judgment entered in the Barnstable Superior Court in a civil action entitled "Starboard LLC v Town of Barnstable" bearing the docket number BACV20030058, a copy of which is recorded with the Barnstable Registry of Deeds attached to a Deed in Book 18619, Page 69.

This transfer is made in the ordinary course of business, of Starboard, LLC.

For title, see Deed recorded with the Barnstable Registry of Deeds in Book 18619, Page 69.

PROPERTY ADDRESS: 459 & 449 Old Mill Road, Osterville, MA 02655

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