



**Town of Barnstable**  
**Zoning Board of Appeals**  
**Minutes**

**June 27, 2012**

Laura Shufelt - Chair	Present
William Newton	Absent
Craig Larson	Present
Alex Rodolakis	Present
Brian Florence	Present
George Zevitas	Present

Also present were Jim Kinsella from Barnstable Enterprise

Laura Shufelt opens the hearing at 7:06 PM.

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**Introduction of Board Members – *Board members introduce themselves.***

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**Approval of minutes from March 28, 2012, April 11, 2012, April 25, 2012 and May 9, 2012**

***Motion is made by Brian Florence and seconded by Craig Larson to approve the minutes as submitted.***

***Alex Rodolakis notes that he was not here for the March 28<sup>th</sup> hearing.***

***Vote:***

***All in favor***

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**7:00 PM  
Inc.**

**Appeal No. 2003-090 - New**

**JDJ Housing Development, LLC & Dakota Partners,**

JDJ Housing Development, LLC and Dakota Partners Inc. have requested a one-year extension of Comprehensive Permit No. 2003-090 Village Green. Pursuant to 760 CMR 56.05(12), the Applicants request the extension be treated as an insubstantial change to the Comprehensive Permit. The request would be extend the permit to January 9, 2014.

***Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt***

***Attorney Peter Freeman is here representing the applicant. He indicates that currently, the permit is extended to January 9, 2013 and that they are making progress. However, the economy and the fact that they thought they had a chance to get tax credits that were in the last round but didn't, they were not awarded the tax credits but are still in line for it. They expect with a great degree of certainty that they will get the tax credits and then they will be able to close next year and have this project underway. They are not seeking modifications but have an***

*extension of the Purchase & Sales agreement with Steve Heslinga, Trustee Enoch Cobb Trust as well as a support letter from him. He indicates that currently, his client has been paying a nonrefundable rent of \$30,000 per year which is doing good for the town as it helps the school children of the Town of Barnstable. He indicates that there has been local support through the affordable housing trust which awarded the \$100,000 to this project and that there will be no changes to the project.*

*George Zevitas asks how long a permit like this remains pertinent, viable etc., to the community as it seems it can go on forever. Attorney Freeman indicates that the economy has been a factor but that because it is with the Cobb Trust, it is a distinguishing factor. He also reiterates that the developer has paid rent to the Cobb Trust and also has support from the affordable housing trust. He believes that there hasn't been any new comprehensive permits since 2008 and the hope is that this project will go forward and make a contribution to the town.*

*Motion is made by Brian Florence and seconded by Alex Rodolakis to extend the permit to January 9, 2014.*

**Vote:**

**AYE:** *Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt*

**NAY:** *None*

## **EXTENSION GRANTED TO JANUARY 9, 2014**

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**7:00 PM**

**Appeal No. 2012-023 – Cont'd**

**Atlantis Iyanough Realty, LLC**

Atlantis Iyanough Realty, LLC (d/b/a Stop & Shop) has applied for a variance from the sign code, Section 240-65, as necessary for freestanding/pylon and wall signs totaling 182 square feet, where a maximum of 100 feet is allowed. The Applicant seeks a second freestanding/pylon sign and a larger wall sign. The property is located at 425 Attucks Lane, Hyannis, MA as shown on Assessor's Map 274 as Parcels 004/B00, 004/H00, 008/B00, 008/H00, 009/B00, 009/H00, 026/B00, 026/H00, 027, 028, 039 and 040/005, 040-006 & 040-007. It is in the Highway Business and Business Zoning Districts.

Members assigned: William Newton, Craig Larson, Alex Rodolakis, George Zevitas, Laura Shufelt  
Continued from April 25, 2012

***Craig Larson recuses himself and leaves the room***

***Members assigned tonight: Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt***

***Laura Shufelt indicates that a letter has been received from Attorney Ford asking to Withdraw without Prejudice as they have redesigned the site in such a way that they now conform to the ordinance.***

***A motion is made by Brian Florence and seconded by Alex Rodolakis to withdraw without prejudice.***

**Vote:**

***All in favor***

## **WITHDRAWN WITHOUT PREJUDICE**

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**At 7:16, Laura calls the Falacci appeal and reads it into the record:**

John M. Falacci, as Trustee of the Mountain Ash Realty Trust has petitioned for a Special Permit in accordance with Section 240-94.A and Section 240-94.B Nonconforming Uses – Change of a nonconforming use to another nonconforming use and Expansion of a pre-existing nonconforming use. The Petitioner seeks to establish that the former contractor's place of business was a lawful pre-existing nonconforming use of the property and further requests to establish the parameters of that use so that the property may continue to be able to be used as a contractor's place of business. The property is located at 1199 Pitcher's Way, Hyannis, MA as shown on Assessor's Map 273 as parcel 062. It is in the Residence C-1 Zoning District and the Groundwater Protection Overlay District.

Continued from May 23, 2012

**Members assigned tonight, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**John Falacci is here representing the application before the board.**

**Laura Shufelt informs Mr. Falacci that there are only four members and that he has a choice to go forward or continue this to another date certain when a fifth member could be present.**

**Mr. Falacci agrees to go forward with four members.**

**Mr. Falacci gives a summary of the relief being requested. He indicates that he is here to answer any questions the board may have.**

**Elizabeth Jenkins asks for a brief overview and how it would not be a substantial detriment to the neighborhood affected.**

**Mr. Falacci indicates that in 1968, the property was purchased by Mr. Willman who moved his electrical contracting business there, has been running there for 44 years and that not much has changed on the property. He indicates that the area and this property was rezoned to residential in 2004 which he believes was an error. He indicates that he is looking to establish a contractor's place of business, a home improvement business, and a heating/cooling contracting business. He indicates that he has met with the abutting neighbors and since purchasing the property, have put up a new fence and sidewall. Also, Site Plan Review has put conditions on them such as reducing the curb cut on Bearer's Way and connecting to town sewer. He indicates that there will not be much actual operation at the physical address as it will be a contractor's place of business.**

**Laura Shufelt asks the applicant about the parking. Mr. Falacci indicates that there are 8 regular and 1 handicapped. Laura clarifies that staff had suggested a limit of no more than 3 heavy duty vehicles and to have them backed in. Mr. Falacci indicates that he doesn't have a problem but that it doesn't allow for growth. He indicates that a bobcat would be nice in the future but at this time it doesn't present a problem.**

**Brian Florence asks him to clarify the reasoning that this would not be more detrimental to the neighborhood. Mr. Falacci indicates that there is also a limit of employees and that staff has recommended 6 employees can be present on site at any one time which he believes makes it less detrimental. Brian asks if site plan review is binding. Elizabeth Jenkins indicates that because they have an approved Site Plan Review decision that it does not preclude the board from instituting or changing conditions that they feel would be consistent with it meeting the findings and protecting the surrounding neighborhood.**

**Laura clarifies that split rail fence was approved by DPW to have it in the road right of way with the condition that if they needed, DPW could remove it.**

***They discuss maximum number of employees on site at any one time and the parking.***

***Laura asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.***

***Brian Florence makes findings:***

In the matter of Appeal No. 2012-030, John M. Falacci, as Trustee of the Mountain Ash Realty Trust has petitioned for a Special Permit in accordance with Section 240-94.A and Section 240-94.B Nonconforming Uses – Change of a nonconforming use to another nonconforming use and Expansion of a pre-existing nonconforming use. The Petitioner seeks to establish that the former contractor's place of business was a lawful pre-existing nonconforming use of the property and further requests to establish the parameters of that use so that the property may continue to be able to be used as a contractor's place of business. The property is located at 1199 Pitcher's Way, Hyannis, MA as shown on Assessor's Map 273 as parcel 062. It is in the Residence C-1 Zoning District and the Groundwater Protection Overlay District.

1. The existing use is a legal preexisting nonconforming use of the property.
2. The proposed nonconforming use is no more detrimental to the neighborhood
3. The applicant has received all necessary approvals from the Board of Health.
4. 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.
5. The proposed expansion, and/or intensification will not be more detrimental to the neighborhood
6. Any proposed expansion of the use shall conform to the established setbacks for the zoning district in which it is located.
7. The application falls within a category specifically excepted in the ordinance for a grant of a special permit
8. A site plan has been reviewed and found approvable, subject only to the issuance of a special permit.
9. 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.

***Vote:***

***AYE: Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt***

***NAY: None***

***Alex Rodolakis would suggest that they do suggested conditions from staff memo #'s 1 through 5 but feels that #6 might not be fair. Alex feels they need to restrict how many people should be on the premises at any one time. Therefore, he would suggest conditions 1 through 5 and that on condition #6 that there be no more than 9 employees on site at any one time with no parking on Pitcher's Way. They discuss. Laura suggests that the***

**language be that there be no more than 15 people on the site and no parking on Pitcher's Way. Brian agrees. They discuss. Alex suggests that they also do findings 7 through 16 from the staff memo dated June 20, 2012. Laura comments that they did have a request to increase the number of heavy duty vehicles to no more than 3. They agree. They discuss and want to eliminate bobcat from #9.**

**Laura indicates that there is a motion with conditions as amended from the staff report**

**Brian Florence seconds.**

**George indicates that it should not be as amended but as clarified. Laura agrees.**

**Vote:**

**AYE: Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

## **PART B**

**Brian Florence makes findings:**

- 1.** The application falls within a category specifically excepted in the ordinance for a grant of a special permit.
- 2.** A site plan has been reviewed and found approvable, subject only to the issuance of a special permit.
- 3.** After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
- 4.** Relief under Section 940-93(B) is concurrently granted to allow expansion of the preexisting non-conforming building within the required setback area.
- 5.** The proposed use and expansion is on the same lot as occupied by the nonconforming use on the date it became nonconforming.
- 6.** The proposed new use is not expanded beyond the zoning district in existence on the date it became nonconforming.

**Vote:**

**AYE: Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

**Brian Florence makes a motion to grant with the following conditions:**

- 1.** Special Permit No. 2012-030 Part B is granted to John Falacci, Trustee of Mountain Ash Realty Trust for expansion of a preexisting nonconforming use and structure at 1199 Pitcher's Way, Hyannis.
- 2.** Use of the site is restricted to a contractor's place of business. This use shall include an office used for administrative purposes and occasional and incidental retail sales directly to a client.
- 3.** Improvements to the property shall be made in substantial conformance with the plans entitled "Plot Plan of Land located at 1199 Picher's Way, Hyannis, MA", dated May 14, 2012, last revised June 4, 2012, prepared for Mountain Ash Realty Trust, drawn and stamped by Yankee Land Survey Co, Inc., except that the 340 sq.ft building addition shall only be permitted with grant special permits pursuant to Sections 240-93(B) and 240-94(B).
- 4.** Use and improvement of this property shall be in compliance with all conditions issued by Site Plan Review in a letter dated June 1, 2012.
- 5.** The use and improvement of this property shall be in compliance with all conditions issued with Special Permit No. 2012-030 Part A.

**Seconded by Alex Rodolakis.**

**George asks what a contractor would be selling to the clients. Mr. Falacci indicates that it would be where product would be stored for a contracted client.**

**Vote:**

**AYE: Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

## **GRANTED WITH CONDITIONS**

**Craig Larson returns.**

**Laura calls the Swenson appeal and reads it into the record:**

**7:10 PM**

**Appeal No. 2012-033 - New**

**Swenson**

Christian H. Swenson has petitioned for a Special Permit in accordance with Section 240-92(B) Nonconforming buildings or structures used as single- and two-family residences. The petitioner seeks to construct a garage/storage addition that does not meet the required setbacks from wetlands and great ponds, but shall be no closer to the wetlands or edge of the pond than the existing dwelling. The subject property is located at 110 Nyes Neck Road East, Centerville, MA as shown on Assessor's Map 232 as parcel 011-001. It is in the Residence D-1 Zoning District.

**Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**Christian Swenson is representing himself and is here with his wife and Steve Wilson from Baxter and Nye. Mr. Swenson indicates that they need more space and have worked with ConComm on this. He indicates that it will be a cold storage shed attached to the house by a breezeway, has no foundation, connects the house to the garage. After much review, they located it on top of the existing paved driveway. The area underneath the boat storage is a gravel floor on top of the area that was backfilled previously for the parking area of the driveway. It has passed ConComm. They needed a special permit because it will be constructed too close to a great pond.**

**Laura asks why this would not be a detriment to the neighborhood or the neighborhood affected. Mr. Swenson indicates that their property was subdivided some years ago from a two acre lot with the existing house from the previous owners who are in support of his proposal. He indicates that the house was renovated around 2000. The other property belongs to Richard Kramer who supports this as he submitted a letter in the file in support. They have the smallest house in the area and indicates that they need more space. He indicates that the new design puts it in a better architectural scale.**

**Laura Shufelt clarifies that it cannot be used as a bedroom. Mr. Swenson indicates that there will be no plumbing and is not intended to be a bedroom.**

**Craig Larson comments that he doesn't see a floor plan. Elizabeth Jenkins indicates that the applicant has submitted new plans tonight revised elevations signed and stamped by an architect in conformance with the building code.**

**They do not see a floor plan. Mr. Swenson indicates that the garage will be a concrete slab and that the upstairs will be just one big open space and there are no partitions or dividing walls.**

**Craig clarifies with Elizabeth Jenkins that they are no unusual conditions from ConComm that the board should be concerned about. .**

**Laura Shufelt asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.**

**Laura indicates that there are two letters submitted to the file, one from the Hookers and one from Kramer's in favor.**

**Mr. Swenson indicates that he has read the suggested conditions and is in agreement with them.**

**Craig Larson does findings:**

Christian H. Swenson has petitioned for a Special Permit in accordance with Section 240-92(B) Nonconforming buildings or structures used as single- and two-family residences. The petitioner seeks to construct a garage/storage addition that does not meet the required setbacks from wetlands and great ponds, but shall be no closer to the wetlands or edge of the pond than the existing dwelling. The subject property is located at 110 Nyes Neck Road East, Centerville, MA as shown on Assessor's Map 232 as parcel 011-001. It is in the Residence D-1 Zoning District.

A Notice of Intent for the project was approved by the Commission on March 13, 2012. To mitigate the encroachment in the 50' buffer area, the Petitioner is required to restore the area delineated on the plan as 'proposed mitigation area' to a natural state. Extensive invasive species will be removed from the area and replaced with native vegetation.

Special Permit Findings

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

Section 240-92(B) of the Barnstable Zoning Ordinance allows for expansion of a pre-existing nonconforming structure used as a single-family residence by special permit where the expansion is deemed to create an intensification requiring a special permit.

- Site Plan Review is not required for alteration or expansion of a single-family residential structure.
- After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
- That the proposed expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

**Vote:**

**AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

**Craig Larson makes a motion to grant the relief being sought with the following conditions:**

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1. Special Permit 2012-033 is granted to Christian H. Swenson for the expansion of the preexisting nonconforming residential structure at 110 Nyes Neck Road East, specifically for the attached addition of a 10 foot by 14 foot enclosed walkway, a 20 foot by 32 foot garage/storage addition and a 16 foot by 32 foot covered boat storage area.
2. The addition shall be constructed in substantial conformance with the plan entitled "Wetlands Permit Plan – Proposed Addition" drawn and stamped by Baxter Nye Engineering and Surveying, last revised April 25, 2012 and the construction drawings entitled 'Swenson – 110 Nyes Neck Road East' dated April 28, 2012.
3. Provided that the property is connected to an on-site septic system, the number of bedrooms on the property shall be limited to three.
4. The development, use, and maintenance of the property shall be in compliance with the Order of Conditions issued by the Conservation Commission.

5. Further expansions or additions to the dwelling and non-water dependent accessory structures shall be prohibited within 35 feet of wetlands or 50 feet of mean high water on Bearse Pond.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

**Seconded by Brian Florence.**

**Vote:**

**AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

## GRANTED WITH CONDITIONS

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**At 8:02 PM, Laura calls the Emerald Physician Services appeal and reads it into the record:**

**7:15 PM**

**Appeal No. 2012-034 - New**

**Emerald Physician Services, Inc.**

Emerald Physician Services, Inc. has filed an appeal of an administrative official's decision pursuant to Section 240-125(B)(1) and Massachusetts General Laws, Chapter 40A, §§8 and 15. The appellant proposes to operate a professional medical office in a 2,500 square foot building located in the Service & Distribution District. The Appellant is appealing a determination of the Building Commissioner that professional medical office use is not permitted in the S&D Zoning District. The subject property is located at 3880 Falmouth Road, Marstons Mills, MA as shown on Assessor's Map 058 as Parcel 039-002. It is in the S&D Zoning District.

**Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**Laura indicates that there is a letter submitted from Attorney Eliza Cox requesting a withdrawal without prejudice.**

**Brian Florence seconds**

**Vote:**

**AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

## WITHDRAWN WITHOUT PREJUDICE

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**7:20 PM**

**Appeal No. 2012-035 - New**

**72 South Bay Road Nominee Trust**

Robert Sharkansky and John McElhinney, as Trustees of the 72 South Bay Road Nominee Trust have applied for a variance from Section 240-36D, Minimum lot size in the Resource Protection Overlay District and Section 240-13(E) side yard setback requirements in the RF-1 District. The Petitioners are proposing to reconfigure the lot lines of three contiguous residential lots consisting each of approximately one acre of upland, and create two larger and more conforming lots containing, respectively, 1.96 acres and 1.77 acres of total land area. Further relief is requested from the 15 foot side yard setback requirement in the RF-1 District for an existing pier. The subject property is located at 72 and 92 South Bay Road, Osterville, MA as shown on Assessor's Map 093 as Parcels 042-003 and 042-001. It is in the RF-1 and Resource Protection Overlay District.



**Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**Attorney Eliza Cox is representing the applicant. Also with her tonight is John McElhinney. She indicates that she will be referring to the exhibits in the memo she has submitted. She gives a brief summary/history of the lots. She displays the current Land Court Plan on the easel. The dwelling straddles Lot 3 and 4. there is a small accessory structure in the northwest corner of Lot 3 and a pier on Lot 4. In 2011, the Fireman's sold the lots to the trust but still control the trust.**

**She switches plans to show the proposal and shows the reconfiguration of the lot lines. She indicates that the proposal is to reconfigure the lots lines, eliminate one of the lots which would result in two larger residential lots. She indicates that the trust has requested two required variances from the Resource Protection Overlay District and from setbacks from the pier and that the proposal meets the variance criteria as the current configuration shows long and rectangular shape and that the placement of the pier is unique in that affects where the lot line.**

**Additionally, there are wetlands and the area is mapped by FEMA which limits where the buildable area is on the properties. Also, not granting the relief being sought would create a hardship as having to build within the existing lots as it constrains the buildable envelope on the properties and would not be a detriment to the public good or neighborhood and will have less traffic as it will be less densely built on. The trust has received several letters of support which she hands to the chair.**

**Attorney Cox speaks to the suggested conditions in the staff report and that #2 indicates six feet and should be changed to five. Also, #6, she is asking for flexibility as the engineers have not perced the property as of yet and it would seem unlikely that they would need a variance from BOH for bedroom count but without doing the perc they are not sure and it would be for citing the septic system. She asks that this condition be eliminated as they are eliminating one lot and allow the BOH to make that determination.**

**Laura Shufelt asks if there is anyone here from the public who would like to speak either in favor or in opposition.**

**Jim Kinsella from the Barnstable Enterprise asks if anything would happen if it went through to the residential structure on the property.**

**Eliza indicates that says it would conform, that the decision would not have any affect as it exists.**

**Jim Kinsella asks if this change goes through if there would be 3 residential structures. Laura Shufelt indicates that it would result in just two lots and two principal structures per lot.**

**Laura Shufelt indicates that the septic records at the BOH are lacking but it looks like the accessory structure has an apartment in it and asks if the septic system is connected to the principal dwelling's system. Attorney Cox does not know if it has a separate septic system but obviously, if a new house is built it would have to be compliant with Title V requirements. Laura would like to tweak instead of eliminate Condition #6 which pertains to complying with Title V without variance. Attorney Cox indicates that her client is okay with it being tweaked.**

**Alex Rodolakis makes findings:**

Robert Sharkansky and John McElhinney, as Trustees of the 72 South Bay Road Nominee Trust, have applied for a variance from Section 240-36(D), minimum lot size in the Resource Protection Overlay District and Section 240-13(E) side yard setback requirements in the RF-1 District. The Petitioners are proposing to reconfigure the lot lines of three contiguous residential lots consisting each of approximately one acre of upland, and create two larger and more conforming lots containing, respectively, 1.96 acres and 1.77 acres of total land area. Further relief is requested from the 15 foot side yard setback requirement in the RF-1 District for an existing pier. The subject properties are located at 72 and 92 South Bay

Road, Osterville, MA as shown on Assessor's Map 093 as Parcels 042-003 and 042-001. They are in the RF-1 and Resource Protection Overlay District.

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

**Vote:**

**AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

**Alex Rodolakis makes a motion to grant the relief being sought with the following conditions:**

1. A variance is granted from the minimum lot area requirements of the Resource Protection Overlay District to allow the reconfiguration of three lots with approximately one acre of upland each into two lots with 1.65 acres and 1.47 acres of contiguous upland, respectively, as shown on a plan entitled "72 and 92 South Bay Road – prepared for Paul & Phyllis Fireman", dated May 23, 2012, drawn and stamped by Baxter Nye Engineering & Surveying.
2. This variance shall also allow a pier to be located no closer than **five** ~~six~~ feet from the lot line of 'Lot A', as shown on the plan referenced in Condition 1.
3. An Approval Not Required (ANR) plan shall be prepared based upon the plan referenced in Condition No. 1. The plan shall incorporate a reference to this variance and notation that the lots are subject to compliance with all conditions of the variance.
4. The Approval Not Required (ANR) plan shall be submitted to the Planning Board for endorsement and thereafter recorded at the Registry of Deeds along with the recording of this variance. Copies of the recorded ANR plan and this decision shall be submitted to the Zoning Board of Appeal's file for this variance to be in effect.
5. There shall be no further division of the lots.
6. Any new development and/or redevelopment shall comply with the **bedroom limitation of Title V and local Board of Health regulations without variance.**
7. Construction of new non-water-dependent structures and on-site wastewater treatment systems shall be prohibited within a FEMA designated Velocity Zone.
8. If the variance and Approval Not Required (ANR) plan have not been recorded at the Barnstable County Registry of Deeds within one year from the date of issue of this variance, this variance shall expire, unless extended.

**Seconded by Brian Florence**

**Vote:**

**AYE: Craig Larson, Alex Rodolakis, Brian Florence, George Zevitas, Laura Shufelt**

**NAY: None**

**GRANTED WITH CONDITIONS**

**At 8:29 PM, A motion is made by Laura Shufelt and seconded by Brian Florence to go into Executive Session to discuss litigation strategy with respect to the case of Bonner v. the Barnstable Zoning Board of Appeals, based on**

***the Chair's declaration that an open meeting may have detrimental effect on the litigating position of the Town, and not to reconvene in Open Session.***

**Roll Call Vote:**

Craig Larson = Aye

Alex Rodolakis = Aye

Brian Florence = Aye

George Zevitas = Aye

Laura Shufelt = Aye