



Town of Barnstable
Zoning Board of Appeals
Minutes
August 22, 2012

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

Also present were Elizabeth Jenkins – Principal Planner and Carol Puckett – Administrative Assistant.

At 7:05 PM, Laura Shufelt opens the hearing. Members introduce themselves.

Laura indicates that the board will be going into executive session and reconvening in open session.

Laura Shufelt makes a motion to go into executive session in order to discuss strategy regarding the following litigation:

First, Gregory vs. the Zoning Board of Appeals and secondly, AMA Nantucket inc., d/b/a Marvin Design Gallery vs. the Barnstable Zoning Board of Appeals and that her as chair declare that in both cases an open meeting might have a detrimental effect on the litigating position of the Zoning Board of Appeals of the town and to reconvene in open session.

Brian Florence seconds

Executive Session

Roll Call Vote:

George Zevitas = AYE

Brian Florence = AYE

Craig Larson = AYE

Alex Rodolakis = AYE

William Newton = AYE

Laura Shufelt = AYE

Laura Shufelt asks the public to leave the room until executive session is over.

Executive session ended at 7:36 PM

Approval of minutes from June 27, 2012, and July 25, 2012

Motion is made by Alex Rodolakis and seconded by Brian Florence to correct the minutes and approve them by taking "Clerk" off next to William Newton's name.

Vote:

All in favor

At 7:37, Laura reads the Blair appeal into the record:

7:00 PM

Appeal No. 2012-039 – Cont'd

Blair

Henry Blair has applied for variances from lot area, shape, and width requirements and minimum setback requirements to restore, convert and expand an existing historic carriage house/garage into a one-bedroom single-family dwelling on a 7,341 sq.ft triangular shaped lot. The Applicant is proposing to expand the footprint of the structure by constructing a rear addition of 210 sq.ft. The Applicant seeks variances from Section 240-7(B) Conformance to Bulk & Yard Regulations, 240-7(C) Lot Size Requirements, 240-7(D) Lot Shape Factor, 240-7(E) Contiguous Upland Requirements, and 240-11(E) Minimum Lot Size, Minimum Lot Width, and Minimum Side Yard Requirements. The property is located at 3075 Main Street, Barnstable, MA as shown on Assessor's Map 279 as parcel 041. It is in a Residence F-2 zoning district.

Continued from July 11, 2012.

A request to withdraw the variance application without prejudice has been received.

Laura Shufelt indicates that a letter has been received from Attorney Peter Freeman asking to withdraw without prejudice.

Motion is made by Laura Shufelt and seconded by William Newton to grant the request to withdraw without prejudice.

Vote:

All in favor

WITHDRAWN WITHOUT PREJUDICE

7:05 PM

Appeal No. 2012-046

Bow Lane Realty Trust

William F. Swift and Wendy S. Lapine, Trustees of the Bow Lane Realty Trust are seeking variances to re-divide approximately 4.0 acres of land into two residential lots, one of which will contain an existing homestead. The applicants seek variances from §240-7.E, which requires all lots to have 100% of the minimum lot area as contiguous upland, and §240-7.D Lot Shape Factor requirements for one of the proposed lots; the other proposed lot would conform to all zoning requirements. Relief is also requested from §240-11.E to allow an existing barn to be located 7.4 feet from the proposed lot line, where a 15 foot minimum setback is required. The properties are located at 46 Bow Lane and 1758 Hyannis Road, Barnstable, MA as shown on Assessor's Map 299 as Parcels 049 and 053. They are in the Residence F-2 Zoning District.

Members assigned tonight: Craig Larson, Alex Rodolakis, Brian Florence, William Newton, Laura Shufelt Attorney Eliza Cox from Nutter McClennen & Fish is representing the applicant.

Attorney Cox is joined by trustees, William Swift and Wendy Lapine. She indicates that she will be referring to a memo which she had previously submitted to the board and also has a handout for tonight. She indicates that she had met with Growth Management previously and gives a summary of relief being requested. She refers to Exhibit

B. She shows a plan which shows a wetland which is in the middle of the lot as it exists. She gives a brief history of the wetlands referring to her handout she gave out tonight. She indicates that the ditches ran into a culvert and this culvert, over time, backed up and water started ponding which resulted in the wetland part of this lot. She indicates that if the culvert were ever replaced, it would remove the ponding of water at Bow Lane. She then points out 46 Bow Lane which she indicates is also registered land. She indicates that the Ebenezer Bacon House is on this property and is listed as a contributing building. Presently on the lot is the main homestead, barn and shed. The third lot is Lot 2 which is also land court property which runs on the north side and connects to Bow Lane and is exhibit E in the memo. She indicates that the proposal is to take these lots and create two lots, one lot with the homestead and barn and another developable lot for single home purposes. The shed building is to be demolished which has been approved by Old Kings Highway. She goes over the variance requirements and that the unique soil conditions are because of the wetlands and that the lots are uniquely shaped as most of the lots are rectangular and square and have frontage on three roads. There are unique structures on this lot as there is an historic homestead which is listed as a contributing building in the National Register district. With reference to the contiguous upland requirement and lot shape factor, the presence of the wetlands causes noncompliance with those standards which is a significant hardship, is not caused by his client but by the culvert. Not granting would be a detriment as it would be an unlawful lot with an historic homestead on it. Because of the shape of the lot and the presence of the wetland that runs through Lot D, it affects the layout of the lot and driveway and that moving the historic barn structure would be a financial hardship. She believes these variances being requested are diminimus and that the new dwelling to be constructed will be tucked back from public view. There is a benefit to granting the relief and her clients have agreed, as a condition of the variance decision, that no new construction will be done between the wetlands and Hyannis Road on proposed Lot C. She indicates that this property has been owned by the Swift family for over the past 100 years. She has comments on the draft conditions.

Questions from board

William Newton asks about the status of Bow Lane regarding an ANR for access. Attorney Cox indicates that it is a private road and that they met, before filing, with the Fire Department who is comfortable with it.

Brian indicates that there is a letter that speaks to the frontage and asks Attorney Cox to speak to it. Attorney Cox indicates that this is land court land with exact boundaries and they are confident that it has the 220 feet of frontage and if not they would come back before the board for a modification.

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

Attorney Peter Leveroni is here representing the immediate abutters and asks to wait and speak to the proposed conditions.

Laura shays there were two letters submitted, one from Alex Deveaux questioning the amount of frontage that Mr. Swift is currently claiming and another letter from Old King's Highway in support to protect open field area.

Attorney Cox addresses Page 3 of staff report under proposed conditions. She indicates that she has been in discussion with Attorney Leveroni who is representing a direct abutter. On page 3, first is a new suggested condition that is generated from that discussion which is to include only "one single-family residence and its accessory structures shall be constructed on lot D". which they have agreed to. Also, as to draft condition #6, they would like to revise to read "the upland portion of Lot B2, as shown on land court plan 16447A, contiguous to Hyannis Road, shall remain undeveloped and in a natural state. The construction of accessory structures or addition of impervious surfaces thereon shall be prohibited without further modification of this decision. The use of this upland for the long term storage or parking of vehicles, boats or recreational vehicles shall be prohibited.. Use of this area for the short term parking of vehicles and boats shall be permitted." She notes that occasionally people are allowed to park their boats or cars for parties or events and are not asking for long term storage but just for short tem events or emergencies.. Secondly, they would like the board to consider the revision of #7 to read: "There shall be no further division of the lots. The lot shall not be used to provide vehicular access to any

abutting properties which do not presently have rights in Bow Lane and there shall be no road through the subject properties providing access to the abutting lots". Also, as to #9, they are fine with the intent but is uncomfortable with how broad it is and asks to delete #9 and replace it with "The proposed division will not affect any existing rights which exist in or over the subject properties". Also, they ask to eliminate draft condition #10 and allow this to be decided by the environmental authorities of the Town.

Attorney Leveroni is here on behalf of the Prothero's who own 20 Bow Lane who feel comfortable with conversations from the Swifts and Attorney Cox and are in favor of this project.

Brian Florence believes that deleting the condition that Attorney Cox has requested is appropriate as the board is not qualified to make those decision and that it should be left up to the environmental authorities of the Town. Elizabeth Jenkins believes that in regards to the division of the lots, that just conditioning the preservation of the open space wasn't strong enough language and recommends recording a development document as a further assurance that this lot would stay undeveloped and includes a prohibition about it not being used as storage.

Attorney Cox refers back to Condition #10 and her client says it could be cost prohibited to her client and would ask to allow the environmental authorities of the Town to access when/if a new house is to be proposed on Lot D. As far as proposed Condition #6, she thinks it is fine and the existing parking is something they would like to retain for events and short term boat parking and if the board would like to eliminate short term and long term so that it just said storage that is prohibited is okay but they would like to retain the ability to allow for some short term parking for special events on the site. Also, as it relates to a restriction versus a condition, she doesn't recall that the distinction came up in prior discussions but it did come up in terms of the conditions of a decision that would prohibit structures in that area in order to preserve the view shed which her client is agreeable to. She would suggest that there is no need for an additional restriction as this is registered land. Additionally, there is a condition that it be noted on the ANR plan that these lots are subject to a variance and the conditions of the decision which they are agreeable to.

Brian Florence thinks there should be more clarity to what short term means. The board discusses. Laura wants to talk about the length of time of the parking such as overnight. Attorney Cox asks to talk with her client.

Laura Shufelt calls a five minute break. After five minutes, Laura calls it back in session

Attorney Cox would suggest that the use of this upland for storage or parking of vehicles, boats or recreational vehicles for more than two days shall be prohibited.

Brian Florence would suggest adding "except for emergency situations". Attorney Cox agrees.

William Newton makes findings::

In Appeal 2012-046, the applicants seek variances from §240-7.E, which requires all lots to have 100% of the minimum lot area as contiguous upland, and §240-7.D Lot Shape Factor requirements for one of the proposed lots; the other proposed lot would conform to all zoning requirements. Relief is also requested from §240-11.E to allow an existing barn to be located 7.4 feet from the proposed lot line, where a 15 foot minimum setback is required.

1. William F. Swift and Wendy S. Lapine, Trustees of the Bow Lane Realty Trust are seeking variances to re-divide approximately 4.0 acres of land into two residential lots, one of which will contain an existing homestead.
2. The properties are located at 46 Bow Lane and 1758 Hyannis Road, Barnstable, MA as shown on Assessor's Map 299 as Parcels 049 and 053. They are in the Residence F-2 Zoning District.

3. The parcel addresses as 1758 Hyannis Road is vacant and impacted by wetlands. The rear lot, 46 Bow Lane, is developed with a historic homestead, dating to around 1800. There is a 5,700 square foot dwelling, a barn and a small garage. The garage will be demolished.
4. Bow Lane is a narrow paved road. The way contains utilities, including Town sewers, in recorded easements. The Applicant has indicated that these easements would continue should the land be divided
5. Proposed "Lot C" is comprised of 1758 Hyannis Road and portions of 46 Bow Lane that include the existing homestead. This property would contain, when combined, a total of 2.15 acres (93,589 sq.ft). The lot would have frontage on Hyannis Road, as well as Bow Lane. Creation of this lot would require two variances Relief from the requirement that all lots shall have 100% of the minimum required lot area as contiguous upland. The lot contains a total of 1.72 acres of upland, but this area is separated by .42 acres of wetland. The Applicant has indicated that the eastern portion of the proposed lot contains 40,092 square feet of contiguous upland; this portion of the lot contains the house and the barn. Secondly, a variance from the lot shape factor requirements is needed . The shape factor requirement was adopted in 1977, around the same time as the increase in minimum lot areas to one acre, to mitigate the creation of irregularly shaped lots.

The eastern upland portion of the lot, less a small portion of the underlying Lot 2, was used to calculate the proposed shape factor of 28.3.

6. Lot "D" is proposed to be a vacant buildable lot containing 83,790 square feet of upland, 32.1 feet of frontage on Bow Lane, and having a lot shape factor of 17.8. This lot would conform to all requirements of the RF-2 District.
7. Further, the applicant requests relief from the 15 foot side yard setback requirement to allow the proposed lot line to be drawn 7.4 feet from the existing accessory barn. The applicant is proposing to tear down an accessory one-car garage located on Bow Lane which will allow for the creation of 32 feet of frontage on Bow Lane.
8. 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;
9. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
10. 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, William Newton, Laura Shufelt

NAY: None

Motion is made by William Newton to grant the relief being requested with the following conditions:

1. A variance is granted from the minimum contiguous upland and shape factor requirements to divide the properties at 46 Bow Lane and 1758 Hyannis Road into two buildable residential lots. Specifically variances are granted from Section 240-7 (D) and (E) to allow a new lot to be created with less than one acre of contiguous upland and a lot shape factor of 28.3.
2. Further relief is granted from the 15 foot minimum side yard setback requirements of Section 240-11(E) to allow an existing barn to be located 7.4 feet from a proposed lot line.
3. The lots shall be divided as shown on a plan entitled 'Plan of Land – Petitioners William F. Swift and Wendy S. Lapine, Trs. Bow Lane Realty Trust', dated July 3, 2012, drawn and stamped by C. Frank Whiting of Eagle Surveying, Inc.
4. An Approval Not Required (ANR) plan shall be prepared based upon the plan referenced in Condition No. 3. The plan shall incorporate a reference to this variance and notation that the lots are subject to compliance with all conditions of the variance.

5. The Approval Not Required (ANR) plan shall be submitted to the Planning Board for endorsement and thereafter recorded along with the recording of this variance. Copies of the recorded ANR plan and this decision shall be submitted to the Zoning Board of Appeals' file for this variance to be in effect.
6. The upland portion of Lot B-2, as shown on Land Court Plan 16447-A, contiguous to Hyannis Road shall remain undeveloped. The construction of accessory structures or addition of impervious surfaces thereon shall be prohibited. The use of this upland for storage or the parking of vehicles, boats, or recreational vehicles for more than two days shall be prohibited.
7. There shall be no further division of the lots and the lots shall not be used to provide vehicular access to any abutting properties that do not presently have rights to Bow Lane and there shall be no road through the subject properties providing access to abutting properties.
8. Any historic stone walls on the properties shall be preserved and properly protected during future construction.
9. The proposed division will not affect any existing rights which exist in or over the subject properties.
10. Any development or future development shall be connected to public water and public sanitary sewer.
11. 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
12. Only one single family residence and its accessory structures shall be constructed on Lot D.

Seconded by Brian Florence.

Brian would like to add to Condition #6, "except boat storage which may be permitted in case of emergency situations".

Brian Florence would also like to strike Condition #10.

Motion is made by Brian Florence and seconded by Alex Rodolakis to strike Condition #10.

Vote:

AYE: Brian Florence, Craig Larson, Alex Rodolakis, Laura Shufelt

NAY: William Newton

Attorney Cox inquires, at to Condition #6 and to add "without further modification of this decision".

Motion is made by Brian Florence and seconded by Craig Larson to add language to #6.

Vote:

AYE: Brian Florence, Craig Larson, Alex Rodolakis, William Newton, Laura Shufelt

NAY: None

Vote to amend relief with amendments:

Vote:

AYE: Brian Florence, Craig Larson, Alex Rodolakis, William Newton, Laura Shufelt

NAY: None

GRANTED WITH CONDITIONS

At 8:41, Laura Shufelt calls the Harborview appeal and reads it into the record:

7:10 PM

Appeal No. 2012-047

Harborview Properties Realty Trust

Richard N. Gordon, Trustee of Harborview Properties Realty Trust has petitioned for a Special Permit in accordance with Section 240-91.H(3) Developed lot protection; demolition and rebuilding on nonconforming lots. The petitioner is proposing to demolish and rebuild a single-family residence on a pre-existing nonconforming lot containing less than 10,000 square feet. The proposed dwelling would conform to all setback requirements. The property is located at 67 Harbor View Road, Barnstable, MA as shown on Assessor's Map 319 as Parcel 133. It is in the Residence B Zoning District.

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

Attorney John Idman from Singer & Singer is representing the applicant.

Attorney Idman indicates that also with him tonight is Richard Gordon who is the trustee of Harborview Properties Realty Trust. He indicates that the Gordon's had vacationed here and bought a house a few months ago. He summarizes the relief being requested and indicates that the Gordon's have met with the neighbors prior to coming to the Zoning Board of Appeals. Based on the comments from neighbors at that meeting, the Gordon's moved the house which is now more centrally located on the lot. Attorney Idman indicates that the new house will conform to setbacks and height and will meet the floor area ratio. He does not believe that this would be more detrimental to the neighborhood. However, they will have not been reviewed or approved yet by Old King's Highway for the revisions of the building design. He indicates that his clients are okay with the conditions with the exception of the square footage which he indicates should now read 1878 square feet versus 1842 because of revisions.

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

The board discusses the bulk of the house. Brian doesn't think it is out of character. Laura thinks that the neighborhood has changed and they are not extending setback requirements but has a problem with the 2.5 story definition and thinks it is pushed to the limit.

Elizabeth Jenkins refers to the fact that there is no parking on Harborview Road and would like to talk about where they would park. Attorney Idman indicates that they would probably park on the grass next to the driveway and understands that they can't park in the right of way.

Elizabeth Jenkins also refers to the enclosed deck which they had made revisions to in order to open it up as a closed deck would add to the FAR (floor area ratio) whereas an open deck would not.

Craig Larson makes findings:

In Appeal 2012-047, the applicant is Richard N. Gordon, Trustee of Harborview Properties Realty Trust who has petitioned for a Special Permit in accordance with Section 240-91.H(3) Developed lot protection; demolition and rebuilding on nonconforming lots. The petitioner is proposing to demolish and rebuild a single-family residence on a pre-existing nonconforming lot containing less than 10,000 square feet. The proposed dwelling would conform to all setback requirements. The property is located at 67 Harbor View Road, Barnstable, MA as shown on Assessor's Map 319 as Parcel 133. It is in the Residence B Zoning District.

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

Ordinance Section 240-91(H), applicable to preexisting legal nonconforming lots less than 10,000 square feet improved with a single-family residence which conformed to all provisions of the zoning ordinance in effect at the time of construction, allows for the complete demolition of the old residence and reconstruction of a new residence with a Special Permit from the Zoning Board of Appeals.

- Site Plan Review is not required for single-family residential structures.

- 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.
- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.
- The proposed dwelling is in compliance with standards for setback, lot coverage floor area and height as described above.

Vote:

AYE: Craig Larson, Alex Rodolakis, George Zevitas, William Newton

NAY: Laura Shufelt

A motion is made by Craig Larson to grant the relief being sought with the following conditions:

1. Special Permit 2012-047 is granted to Richard N. Gordon, Trustee, Harborview Properties Realty Trust, for the demolition of an existing cottage and rebuilding of a 1,842 square foot dwelling at 67 Harbor View Road in Barnstable.
2. The dwelling shall be reconstructed in substantial compliance with the site plan entitled "Proposed Site Plan of 67 Harbor View Road", last revised 8/14/12, drawn and stamped by Daniel Ojala of Down Cape Engineering, Inc. and the elevations and floor plans entitled "Proposed New Residence – Gordon Residence", last revised 8/14/12, drawn by Northside Design Associates, sheets 1-4.
3. Revised plans for the dwelling shall be approved by the Barnstable Committee of the Old Kings Highway Regional Historic District Commission.
4. Prior to issuance of a certificate of occupancy, a certified as-built plan prepared by an independent party shall be submitted to the Building Commissioner to confirm that the floor area ratio of the dwelling conforms to code requirements.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be located so as to conform to the required setbacks for the district and screened from neighboring homes and the public right-of-way.
6. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling is prohibited without prior approval from the Board.
7. Accessory buildings or structures in excess of 120 square feet, including swimming pools, are prohibited. All accessory structures shall be in compliance with setback requirements.
8. The dwelling shall be connected to public sanitary sewer and town water.
9. During all stages in the demolition and reconstruction of the dwelling, all equipment and materials associated with the demolition/reconstruction shall be required to be located on-site, with the exception that another neighboring property may be used only if permission is granted by that property owner.
10. At no time shall storage of construction materials or items be permitted in the right-of-way of Harbor View Road except as may be needed for roadway improvements, landscaping purposes or for utilities and then only on a temporary basis.
11. 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 building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by William Newton.

Laura Shufelt indicates that the square footage in #3 should read 1878 square feet. Also, amend that all parking shall be on-site.

Vote:

AYE: Craig Larson, Alex Rodolakis, George Zevitas, William Newton

NAY: Laura Shufelt

GRANTED WITH CONDITIONS

AT 9:03 PM, Laura reads the Kundell appeal into the record:

7:15 PM

Appeal No. 2012-048

Matthew L. Kundell

Matthew L. Kundell has petitioned for a Conditional Use Special Permit in accordance with Section 240-25.C(1) – Conditional uses in the Highway Business District. The petitioner is proposing to convert an existing office into a barber shop. The proposal includes a barber shop on the first floor, employee-only offices and storage on the second floor, and minor alterations to parking. The property is addressed as 1170 Iyannough Road, Hyannis, MA as shown on Assessor's Map 274 as Parcel 010. It is in the Highway Business Zoning District.

Members assigned tonight: Craig Larson, Brian Florence, George Zevitas, William Newton, Laura Shufelt

Attorney Steven Pizzuti is representing the applicant.

Also with Attorney Pizzuti tonight are the applicants. Attorney Pizzuti indicates that Mr. Kundell runs a barber shop in the mall and would like to move that business to this new location. He indicates that recently, the Cape Cod Commission issued a decision which, in part, was to grant an easement pertinent to this particular property for seven parking spaces in addition to the three in the front for a total of ten. He indicates that this proposal is to have three barber chairs and storage upstairs in the 1.5 story structure. There is a curb cut to this property and fulfills the spirit and intent of the bylaw and that Site Plan Review was favorable.

Laura Shufelt asks if there is anyone from the public who would like to speak. No one speaks.

William Newton makes findings:

In Appeal 2012-048, the applicants is Matthew L. Kundell who has petitioned for a Conditional Use Special Permit in accordance with Section 240-25.C(1) – Conditional uses in the Highway Business District. The petitioner is proposing to convert an existing office into a barber shop. The proposal includes a barber shop on the first floor, employee-only offices and storage on the second floor, and minor alterations to parking. The property is addressed as 1170 Iyannough Road, Hyannis, MA as shown on Assessor's Map 274 as Parcel 010. It is in the Highway Business Zoning District.

1. In Appeal No. 2012-048, Matthew Kundell is requesting a Conditional Use Special Permit to operate a barber shop in a 770 square foot building on Iyannough Road (Rte 132) in Hyannis. The subject property is a 2,613 square foot parcel located between the new Stop & Shop supermarket and Parker's liquor store.
2. Mr. Kundell is proposing to reuse the building for a three chair barber shop. The second floor would be used for storage and offices for employees of the barber shop. The Applicant is proposing to re-stripe the paved area in front of the building with three parking spaces, including one handicapped accessible space. .
3. This perpetual easement grants the subject property owner the use of seven (7) parking spaces on Atlantis' property, along with associated rights of ingress and egress.
4. The application falls within a category specifically excepted in the ordinance for a grant of a special permit: Section 240-25(C)(1) of the Barnstable Zoning Ordinance permits a place of business of a barber in the HB District with the grant of a Special Permit from the Zoning Board of Appeals.
5. That a site plan has been reviewed and found approvable by the Site Plan Review Committee.

The Site Plan Review Committee reviewed the proposal and issued a letter dated June 6, 2012 approving the plan, subject to the grant a Conditional Use Special Permit.

6. 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.
7. The use does not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.

Attorney Pizzuti wants to note that the spelling of the applicants name is Kundel.

Vote:

AYE: Craig Larson, Brian Florence, George Zevitas, William Newton, Laura Shufelt

NAY: None

Motion is made by William Newton to grant the relief being sought with the following conditions:

1. Special Permit 2012-048 is granted to Matthew L. Kundel for the operation of a barber shop, along with accessory offices and storage.
2. The use shall be conducted within the existing 770 sq.ft building located at 1170 Iyannough Road, Hyannis as shown on Assessor's Map 274 as Parcel 010.
3. The reuse shall be in compliance with all conditions of the Site Plan Review Committee letter dated June 2, 2012.
4. This 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 for this special permit to be in effect. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by Brian Florence.

Vote:

AYE: Craig Larson, Brian Florence, George Zevitas, William Newton, Laura Shufelt

NAY: None

GRANTED WITH CONDITIONS

Open: Chair's Discussion

Laura Shufelt indicates that there will be a 40B training on the new regulations in Randolph in September.

Motion is made by Brian Florence and seconded by William Newton to adjourn.

Vote:

All in favor.