



Town of Barnstable Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

Board Members:

Craig Larson – Chair Brian Florence – Vice Chair Alex Rodolakis – Clerk George Zevitas - Member David A. Hirsch – Associate Member
Herbert Bodensiek – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Principal Planner - elizabeth.jenkins@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, September 9, 2015

Hearing Room – 2nd Floor – 367 Main Street, Hyannis, MA

Brian Florence - Chair	Present
Alex Rodolakis - Vice Chair	Present
George Zevitas - Clerk	Present
David Hirsch	Absent
Herbert Bodensiek	Present
Robin Young	Absent
Matthew Levesque	Present

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

As a quorum has been met, Brian Florence opens the hearing at 7:05 PM

Call to Order

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

Brian Florence reads the following with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Comprehensive Permit Requests

Comprehensive Permit No. 2003-150

The Village at Marstons Mills

The Village at Marstons Mills Leasehold Condominium Trust has requested a minor modification of Comprehensive Permit No. 2003-150 to take fee simple ownership in the land for property known as The Village at Marstons Mills. The land is currently owned by the Housing Land Trust of Cape Cod, Inc. The property is located at 624 Osterville/West Barnstable Road (Units A1 – T), Marstons Mills, MA as shown on Assessor’s Map 123 as Parcel 065, Lots 00A – 00Z & 0AA – 0AD.

Members assigned: Alex Rodolakis, George Zevitas, Matt Levesque, Herbert Bodensiek, Brian Florence
Representative: Laura Shufelt – Trustee of The Village at Marstons Mills Leasehold Condominium Trust asking for approval of the transfer. Brian states there is a letter dated August 28, 2015 from Ms. Shufelt requesting the transfer (EXHIBIT A).

Motion is made by George Zevitas and seconded by Matt Levesque that this is a minor modification and would therefore approve the transfer.

Vote:

All in favor

GRANTED

Brian Florence reads the following into the record:

Old Business

7:00 PM Appeal No. 2015-040

Thompson

Jane McC. Thompson, Trustee of 205 Scudder Realty Trust, has applied for a modification of the conditions of Variance Nos. 1995-052 and 2011-023. The applicant is requesting to eliminate Condition #3 of 1995-052 and Condition #3 of 2011-023 restricting the further division of the land. The applicant seeks to allow approval of a further division of the land from one nonconforming lot into two conforming lots. The property is located at 205 Scudder Lane, Barnstable, MA as shown on Assessor's Map 259 as Parcel 007-001. It is located in the Residence 2-C Zoning District.

Continued from August 12, 2015 and August 26, 2015 – No members assigned August 12, 2015

Members Assigned August 26, 2015: Brian Florence, Alex Rodolakis, George Zevitas, Herbert Bodensiek, Robin Young

Motion is made by Alex Rodolakis and seconded by George Zevitas to continue this to September 30, 2015 at 7:00 PM.

Vote:

All in favor

CONTINUED TO SEPTEMBER 30, 2015 AT 7:00 PM

New Business

Brian reads the following into the record:

7:00 PM Appeal No. 2015-045

Reynolds/Gauvreau/Cramer

Ellen W. Reynolds, Andrea W. Gauvreau and Robin W. Cramer have applied for variances from the 1 acre minimum lot area requirements of §240-14E RD-1 District, the 2-acre minimum lot area requirements of §240-36D Resource Protection Overlay District (RPOD) and §240-7D Lot Shape Factor Requirements. The applicants seek to construct a single-family dwelling on a lot that is nonconforming due to merger. The property is located at 149 Beech Leaf Island Road, Centerville, MA as shown on Assessor's Map 187 as Parcel 063-005. It is located in the Residence D-1 and Resource Protection Overlay Zoning Districts.

Motion is made by Matt Levesque and seconded by Alex Rodolakis to continue this to September 30, 2015 at 7:00 PM

Vote:

All in favor

CONTINUED TO SEPTEMBER 30, 2015 AT 7:00 PM

Alex states that he will not be available on September 30th.

Brian reads the following into the record:

7:01 PM Appeal No. 2015-046

Eberle/Littlefield

H. Blair Eberle and Nadine Mary Littlefield have applied for variances from §240-14E Residence D-1 (RD-1) Bulk Regulations and §240-36D Resource Protection Overlay District (RPOD). The Applicants seek relief from the minimum lot

area and width requirements of the RD-1 District and the minimum lot area requirements of the RPOD for both existing lots, as the lots were once held in common ownership and merged for the purposes of zoning. The Applicants also seek relief from the minimum front and side yard setback requirements of the RD-1 District for the existing dwelling at 97 Piney Point Drive. The properties are located at 97 and 16 Piney Point Drive, Centerville, MA as shown on Assessor's Map 228 as Parcels 008 and 009. They are located in the Residence D-1 and Resource Protection Overlay Zoning Districts.

Members assigned: Alex Rodolakis, George Zevitas, Brian Florence, Matt Levesque, Herbert Bodensiek
Representative: Attorney Theodore Schilling

Attorney Schilling states that this is an unusual situation and gives summary of relief being requested. He refers to the plan and notes that the subdivision took place in 1954 before the subdivision control law took effect and thusly most lots were small. At that time, he states that there wasn't any protection for these lots but that they complied with zoning requirements at the time which were minimum lot size of 7500 square feet with 75 feet of frontage; both lots conformed then. Lot 12 was built upon in 1957 and the second one was built upon in 1970. He states that zoning changed in 1956, and these lots merged. Both houses have had building permits issued for various roofing and additions. Throughout this time, Lot 12 was conveyed approximately 4 times and Lot 11 is presently owned by the daughter-in-law. He reiterates that the topographical features of the lots is that houses have existed on both lots, have merged without knowledge of the owners and that there is no adjacent land available in order to fix the problem. Also, these properties have had building permits issued and were taxed and maintained as two separate parcels. He states that accordingly, there is no way that these houses could be forcibly removed and granting a variance would not be a detriment to the neighborhood in any way. As for spirit and intent, this was never meant to happen.

Brian asks for public comment. No one speaks.

Herbert Bodensiek makes findings:

H. Blair Eberle and Nadine Mary Littlefield have applied for variances from §240-14E Residence D-1 (RD-1) Bulk Regulations and §240-36D Resource Protection Overlay District (RPOD). The Applicants seek relief from the minimum lot area and width requirements of the RD-1 District and the minimum lot area requirements of the RPOD for both existing lots, as the lots were once held in common ownership and merged for the purposes of zoning. The Applicants also seek relief from the minimum front and side yard setback requirements of the RD-1 District for the existing dwelling at 97 Piney Point Drive. The properties are located at 97 and 16 Piney Point Drive, Centerville, MA as shown on Assessor's Map 228 as Parcels 008 and 009. They are located in the Residence D-1 and Resource Protection Overlay Zoning Districts.

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met to consider granting each variance request:

- 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:

All in favor

Brian would like to note that the petitioners comment was based specifically on topography.

Motion is made by Herbert Bodensiek to grant the relief being requested with the following conditions:

Conditions

1. Relief from the minimum lot area and frontage requirements of §240-11(E) RD-1 District, and the two-acre minimum lot area requirements of §240-36(D) Resource Protection Overlay District are granted to make lawful the existing lots at 16 and 97 Piney Point Road, Centerville.
2. Relief from the minimum front yard and side yard setback requirements of the RD-1 District is granted to make lawful the dwelling at 97 Piney Point Road, located 29 feet from the front lot line and 8 feet from the side lot line.
3. Any future expansion of either dwelling shall be in accordance with the zoning in effect.
4. This decision shall be recorded at the Barnstable County Registry of Deeds within one year from the date of issuance, or this variance shall expire, unless extended by the Board.

Seconded by: George Zevitas

Vote:

All in favor

GRANTED WITH CONDITIONS

Other

Citizen Planner Training Collaborative Workshop – Chapter 40B - Friday, October 2, 2015, 7:30 a.m. - 2:30 p.m. at The Lantana, 43 Scanlon Dr, Randolph, MA 02368

Elizabeth Jenkins reminds members of the CPTC workshop.

Ms. Jenkins also informs members that the town attorney will be giving a zoning refresher sometime in October, preferably before a regularly scheduled zoning hearing.

Adjournment

Motion is made by Herbert Bodensiek and seconded by Matt Levesque to adjourn.

Vote:

All in favor