



Town of Barnstable Zoning Board of Appeals

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BARNSTABLE TOWN CLERK
2015 DEC 17 PM 2:30

Board Members:

Craig Larson – Chair Brian Florence – Vice Chair Alex Rodolakis – Clerk George Zevitas - Member
David A. Hirsch – Associate Member Herbert Bodensiek – Associate Member Robin Young – Associate Member Matthew Levesque – 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, October 14, 2015 – 6:30 PM

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

Workshop:

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

Also present at the workshop were Carol Puckett – Administrative Assistant, Ruth Weil – Town Attorney, and Elizabeth Jenkins – Principal Planner.

Since a quorum has been met, Brian Florence opens the workshop at 7:39 pm. Ruth Weil gives a PowerPoint presentation on Land Use Regulations. (Exhibit A).

Brian opens the hearing at 7:45 pm

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

Call to Order

Introduction of Board Members – All members present introduce themselves

Brian 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.

At 7:46, Brian reads the following into the record:

Old Business

Appeal No. 2015-049

William Walser, Trustee

William Walser, as Trustee of the Windsong Trust I and as Trustee of the Wingway Trust has applied for variances to Section 240-7.D – Lot Shape Factor and Section 240-36.D – RPOD Resource Protection Overlay District. The applicant is proposing to reconfigure two lots by dividing a 6,344 square feet parcel from 315 Baxter Neck Road and adding it to 305 Baxter Neck Road. Both resulting lots will have in excess of 87,120 square feet of upland; however the newly configured 315 Baxter Neck Road will continue to be nonconforming as to shape factor at 27, where a shape factor of 22 is permitted. The properties are located at 315 Baxter Neck Road and 305 Baxter Neck Road as shown as Assessor's Map 075 as Parcels 009-000 and 008-001. They are in the Residence F and Resource Protection Overlay Districts.

Continued from September 30, 2015 – No members assigned

Representative: Attorney Jeffrey Ford

Members assigned: Alex Rodolakis, David Hirsch, Robin Young, Matt Levesque, Brian Florence

Attorney Jeff Ford gives is representing the applicant and introduces Matt Farrell from J.M. O'Reilly Surveying and Engineering Company. Attorney Ford gives summary of relief being sought. He states that both lots conform to the bulk regulations in the RF zoning district and are in excess of the two acres required in the Resource Protection Overlay District. However, once reconfigured per their proposal if granted, one of the lots will not meet the lot shape factor. As for the variance criteria, Attorney Ford would suggest that the board could make a finding that because of the shape of these lots which are long and narrow in nature create a substantial hardship for the applicant from a site development perspective and that the proposed lot reconfiguration would allow greater latitude to the side yard setback and would not disturb any of the neighbors. The board could also find that such relief could be granted without substantial detriment as they are in excess of the 2 acre requirement and have adequate frontage. Also, the board could find that the bylaw would not be derogated in this case. The shape factor was created in order to prevent odd/bizarre and irregular shaped lots. However, these lots are quite large and have adequate frontage in the Resource Protection Overlay District in which it is located.

Brian Florence asks for public comment. No one speaks.

Board Discussion: none.

Alex Rodolakis makes findings:

Variance Findings

The subject properties are located on Baxters Neck Road in Marstons Mills and front on North Bay. The subject lots contain 3.44 and 2.43 acres of upland, respectively. The lots feature heavily wooded upland transitioning towards a coastal dune. There is stone revetment along the eastern portion of the shoreline

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; unique and large lots as well.
- a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and (inability to use lots to their extent).

- 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

Motion is made by Alex Rodolakis to grant the relief being requested with the conditions as outlined in staff memorandum dated September 21, 2015 with a note that plans are revised plans October 8, 2015 drawn and stamped by JM O'Reilly Associates and conditions 1, 2, 3 & 4 of the staff report (Exhibit A).

Vote:

All in favor

GRANTED WITH CONDITIONS

Alex Rodolakis recuses himself from the Arnold case and leaves for the rest of the hearing.

Brian Florence reads the following into the record:

New Business

Appeal No. 2015-050

Arnold 2012 QPR Trust

Evans Arnold and Laureston R. Blair, Trustees/2012 QPR Trust and Helen O. Arnold and Laureston R. Blair, Trustees/2012 QPR Trust, have petitioned for a Special Permit pursuant to Section 240-92 Alteration/Expansion of a Preexisting Nonconforming Structure. The petitioner proposes to construct a 6' x 18' addition to the front of a preexisting nonconforming dwelling. The property is located at 7 Irving Avenue, Hyannis, MA as shown on Assessor's Map 265 as Parcel 011-002. It is in the Residence F-1 Zoning District.

Representative: Mark Boudreau, Esq.

Members assigned: David Hirsch, Robin Young, Herbert Bodensiek, Matt Levesque, Brian Florence

Attorney Boudreau introduces the applicants and states that they are trying to add on an addition into the front yard setback for use of garbage cans and recycling bins. The statute allows the expansion under 240-92.B and the criteria is allowed as long as it will not be a detriment. This is a good looking property as there is a privet hedge which will remain if the board grants this. The two main abutters are the Hyannisport Club and St. Andrews by the Sea who have submitted letters of support. Attorney Boudreau thinks that this fits the spirit and intent of the bylaw.

Brian reads the names of the people who submitted the letters in support. (Exhibit A)

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

No discussion by the board.

David Hirsch makes findings:

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

Section 240-92 allows for the expansion a preexisting nonconforming dwelling with a Special Permit.

The current setback of the dwelling is lawfully preexisting nonconforming; it conformed to zoning when it was constructed in 1970. The dwelling encroaches into a twenty-foot front yard wetback and thus requires a Special Permit.

- Site Plan Review is not required for single-family residential uses.
- 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 expansion of dwelling will not be substantially more detrimental to the neighborhood than the existing building or structure.

Vote:

All in favor

Motion is made by David Hirsch to grant the relief requested with the following conditions:

Conditions

1. Special Permit No. 2015-050 is granted Evans Arnold, Laureston R. Blair, and Helen O. Arnold as Trustees, to allow the expansion of a preexisting nonconforming dwelling at 7 Irving Avenue, Hyannis to construct an approximately 8 foot by 16 foot addition located 16.3 feet from the front lot line.
2. The addition shall be in substantial conformance with the plan entitled "Site Plan of #11 Irving Avenue Hyannisport, MA" dated 8-19-2015, drawn by Down Cape Engineering, Inc.
3. This decision shall be recorded at the Barnstable County Registry of Deeds and copies filed with the Zoning Board of Appeals and Building Division. The rights authorized by this special permit must be exercised within two years, unless extended.

Seconded by Herbert Bodensiek

Vote:

All in favor

Elizabeth Jenkins states that the applicant dropped off an amended plan with a wet seal stamp dated 10-07-2015.

Amendment accepted.

GRANTED WITH CONDITIONS

Adjournment

Motion is made by Herbert Bodensiek and seconded by David Hirsch to adjourn.

Vote:

All in favor

Exhibits

Workshop – PowerPoint slides

Appeal No. 2015-049- William Walser, Trustee - Exhibit A = Staff Report dated September 21, 2015

Appeal No. 2015-050 - Arnold 2012 QPR Trust – Exhibit A = Letters of Support:

- Received 10-13-15 from Hyannisport Club
- Dated 09-18-15 from St. Andrew's by the Sea