



# Town of Barnstable Zoning Board of Appeals



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Board Members:

Brian Florence – Chair Alex Rodolakis – Vice Chair  
David A. Hirsch –Regular Member Herbert Bodensiek – Regular Member Robin Young – Associate Member Matthew Levesque – Associate Member  
Spencer Aaltonen – Associate Member Jacob Dewey – Associate Member  
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Regulatory / Design Review Planner - [elizabeth.jenkins@town.barnstable.ma.us](mailto:elizabeth.jenkins@town.barnstable.ma.us)  
Anna Brigham – Principal Planner – [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us)  
Carol Puckett – Administrative Assistant – [carol.puckett@town.barnstable.ma.us](mailto:carol.puckett@town.barnstable.ma.us)

## Minutes

**Wednesday, January 11, 2017**

Hearing Room – 2<sup>nd</sup> Floor – 367 Main Street, Hyannis, MA

Brian Florence - Chair	Present
Alex Rodolakis - Vice Chair	Absent
David Hirsch	Present
Herbert Bodensiek	Present
Robin Young	Absent
Matthew Levesque	Present
Spencer Aaltonen	Present
Jacob Dewey	Present

*Also present was Anna Brigham- Principal Planner and Carol Puckett – Administrative Assistant.*

*As a quorum has been met, Brian Florence opens the hearing.*

### 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 an in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

*Brian Florence informs the public that the Beauregard appeal scheduled for this evening will be continued.*

*Brian Florence reads the following into the record:*

### Old Business

**7:00 PM Appeal No. 2016-045**

**Shea/Blake**

Kevin Shea and Kimberly Blake have applied for a Special Permit pursuant to §240-131.4.D(2) Change, Expansion or Alteration of existing conforming or nonconforming uses and structures. The applicants are requesting a Special Permit to construct an addition to the existing dwelling, in addition to a covered porch and new front steps. The property is located at 19 Vine Avenue, Centerville, MA as shown on Assessor’s Map 226 as Parcel 027. It is located in the Craigville Beach District (CBD) and the Craigville Village Neighborhood Overlay Districts.

Continued from December 14, 2016. No members assigned.

Members assigned tonight: Brian Florence, David Hirsch, Herbert Bodensiek, Matthew Levesque, Jake Dewey

**Representative: Michael Ford, Esq. Also with him tonight is Dan Ojala from Down Cape Engineering and a representative from Northside Design.**

**Attorney Ford gives summary of relief being requested. The dwelling currently has 8 bedrooms. His clients purchased the property in 2016 for a single family home. In the process of upgrading it, they would like request to add a small addition. They are also looking to move a set of stairs from right of the dwelling to front of the dwelling. On the area where the addition is, a covered porch will be constructed. The total remodel will result in 6 bedrooms and has approval for a 9 bedroom septic system. Dan Ojala explains the footprint on the easel, explains lot coverage and elevations.**

**Attorney Ford states that they also went before the Barnstable Historical Commission who approved the demolition of parts of the building that are to accommodate the new addition. Also, they received approval and an Order of Conditions from the Conservation Commission.**

**Attorney Ford explains that the gross floor area in the zoning district which includes the basement, finished and unfinished and finished and unfinished attic space. They currently have 7,715 square feet and will end up with 6,827 because of the fact that they will be removing the full foundation under the porch and put on posts or pilings which will reduce the gross floor area. Their proposal is that they will end up with 811 s.f. finished basement and slight increase in the first floor of approximately 100 s.f. and then a reduction in the second floor living area which is accomplished by moving walls. This will result in 4,771 s.f. of finished living area. This will be an increase of 337 s.f. of finished living area which is 7.6% which is less than 10%. The proposed building coverage will be 8.2% which will also fall below the maximum of 10%.**

**Dan Ojala explains lot coverage consisting of impervious/pervious area.**

**Attorney Ford talks about the proposed roof deck and notes that there isn't any definition in the ordinance of either the roof deck or covered porch. He states that there were discussions with the Building Department and Growth Management at which time it was determined to leave it up to the board members for interpretation.**

**Attorney Ford expounds on the special permit findings.**

**David Hirsch notes that the numbering of the bedrooms on the plan should be 6 bedrooms and not five as shown on plans.**

**Jake Dewey asks if there was an existing apartment. Attorney Ford states that the apartment will go away and the dwelling will strictly be a single family home**

**Brian Florence asks for public comment. No one speaks.**

**Board discusses deck versus covered porch per the ordinance. Brian states that his interpretation is that a deck does not have a roof and would like to stick with the ordinance about the floor area. Brian Florence asks Attorney Ford if he is okay with the findings as stated in the staff report. Attorney Ford states that he suggested to staff that one of the conditions would need to be consistent with the tables on his plan. Brian will reference the supplemental staff report dated January 11<sup>th</sup>.**

**Brian Florence makes findings:**

Kevin Shea and Kimberly Blake have applied for a Special Permit pursuant to §240-131.4.D(2) Change, Expansion or Alteration of existing conforming or nonconforming uses and structures. The applicants are requesting a Special Permit to construct an addition to the existing dwelling, in addition to a covered porch and new front steps. The property is located at 19 Vine Avenue, Centerville, MA as shown on Assessor's Map 226 as Parcel 027. It is located in the Craigville Beach District (CBD) and the Craigville Village Neighborhood Overlay Districts

#### Special Permit Findings & Conditions

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:
- Section 240-131.4(D)(2) allows for expansion of an existing lawfully established structure in existence as of January 19, 2011 with a special permit from the Board.
- 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.

Further, §240-131.4 of the Craigville Beach DCPC ordinance states that in granting a special permit, the Board shall find that the proposed alterations and or expansions:

- The proposed alterations and expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.

Comply with § 240-131.1, Purposes and intent:

The purpose and intent of §§ 240-131 through 240-131.8 are to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 09-10 to ensure that development and redevelopment meets the following standards:

- The addition contributes to and respects the character and historic development patterns of the area and minimizes inconsistent redevelopment impacts to the historic and community character resources in this area;
- Protects and preserves scenic views and vistas and ways to the water;
- Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district;
- Protects human life and property from the hazards of periodic flooding.
- Preserves the natural flood control characteristics and the flood control function of the floodplain.

and with the performance standards and design guidelines for the neighborhood overlay area in which the development is located, in accordance with § 240-131.7, Neighborhood District Overlay regulations, with the exception of the dimensional requirements of § 240-131.7 D.(1):

General performance standards:

- The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it.
- The redevelopment complies with the height limitations set forth herein.<sup>1</sup>
- Existing natural vegetation within the fifty-foot buffer area to salt marsh and undisturbed buffer areas 50 feet landward of the mean high-water mark of coastal water bodies shall be preserved to the maximum extent feasible.

Craigville Village Neighborhood performance standards. Section 240-131.7.H. All development and redevelopment shall meet the following standards:

- Preserve the original massing of historic structures.
- Additions should be attached to secondary or less prominent facades of the building, and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
- Works with modest massings. Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.
- The roof pitch on new construction and additions should complement the roof pitch of the historic structure and should maintain a pitch of at least six over twelve.
- Retains original architectural details and unique forms.

The following are standards under Section 240-131.4.D.(2):

- Do not entail an increase in gross floor area or footprint for voluntary demolition of a single-family residence. – n/a reference as outlined staff memo dated January 7th

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<sup>1</sup> BUILDING HEIGHT: The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys cupolas, flagpoles or other similar appurtenances as approved by the Building Commissioner.) (Gable roofs having a slope of 7/12 or greater allowed maximum height; hip and other sloped roofs with a slope of 4/12 or greater are allowed five feet less than the max)

- Do not exceed 25% of the gross floor area of structures in existence as of July 1, 1989, or do not exceed 10% of the gross floor area of structures in existence as of November 6, 2009.<sup>2</sup>
  - The GFA is proposed to increase from 5,720 sq.ft (including the unfinished attic, but not unfinished portions of the basement) to 6,133 sq.ft, an increase of 413 sq.ft or 7.2%.
- Do not increase lot coverage over what is allowed under § 240-131.6, Coverage limitations, or by more than 10% over what was existing on November 6, 2009, whichever is greater.
  - The proposed building coverage does not exceed 10% beyond what was existing on November 6, 2009; the total building coverage is proposed to increase from 2,701 to 2,923 sq.ft, an increase of 222 sq.ft or 8.2%.
  - The proposed the lot coverage (impervious surface) does not exceed 10% beyond what was existing on November 6, 2009; according to figures provided on the Applicant’s survey plan, the total lot coverage is proposed to decrease from 4,328 sq.ft to 4,317 sq.ft.
- Does not increase flood hazards in the neighborhood.
- Maintains or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with § 240-131.5, Note 4.

**Vote:**

**All in favor**

**Brian makes motion to grant with following conditions:**

**Conditions**

1. Special Permit No. 2016-045 is granted to Kevin Shea and Kimberly Blake for the construction of an addition to the existing dwelling, in addition to a covered porch and new front steps at 19 Vine Avenue, Centerville pursuant to Section 240-131.4 (D) (2) of the Craigville Village District.
2. The expansion shall be constructed in substantial conformance with the plan entitled “Site Plan for #19 Vine Avenue Centerville MA prepared for Kevin Shea and Kimberly Blake” dated ~~November 1, 2016~~ and **revised 12-19-16** and design plans by Northside Design Associates dated ~~March 8, 2016~~. **11-28-16**
3. The above-described dwelling shall represent full build-out of the lot. No further additions shall be permitted without approval from the Board.
4. 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 Herbert Bodensiek**

**Vote:**

**All in favor**

**GRANTED WITH CONDITIONS**

**7:01 PM Appeal No. 2017-001**

**Beauregard**

Todd and Anne Beauregard are appealing the decision of the Building Commissioner to issue a building permit (B-16-2228) for the construction of a single-family home with deck, portico and attached garage on property located at 45 East Avenue, Osterville, MA. The appellants claim the lot on which the single-family dwelling is to be constructed has merged with an abutting lot at 25 East Avenue and is therefore not entitled to the “grandfather” protection provided by §240-90 and M.G.L Chapter 40A §6. The subject property are located at 45 East Avenue, Osterville, MA as shown on Assessor’s Map 139 as Parcel 079. It is located in the Residence F-1 (RF-1) and Resource Protection Overlay Zoning Districts

**Brian reads the following into the record:**

**7:02 PM Appeal No. 2017-002**

**Beauregard**

<sup>2</sup> Gross floor area is defined as “the sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

Todd and Anne Beauregard are appealing the decision of the Building Commissioner to issue a building permit (B-16-2229) for the construction of a single-family home with deck, portico and attached garage on property located at 25 East Avenue, Osterville, MA. The appellants claim the lot on which the single-family dwelling is to be constructed has merged with an abutting lot at 45 East Avenue and is therefore not entitled to the “grandfather” protection provided by §240-90 and M.G.L Chapter 40A §6. The subject property is located at 25 East Avenue, Osterville, MA as shown on Assessor’s Map 139 as Parcel 080. They are located in the Residence F-1 (RF-1) and Resource Protection Overlay Zoning Districts.

**Members assigned: Brian Florence, David Hirsch, Herbert Bodensiek, Spencer Aaltonen, Jake Dewey**

**Rep: Michael Ford, Esq., asks to continue both appeals. The counsel for property owners will not be able to attend and have agreed to ask for the continuance.**

**Motion to continue to February 8, 2017 at 7:00 pm by Herbert Bodensiek  
Seconded by David Hirsch**

**Vote:**

**AYE: Brian Florence, David Hirsch, Herbert Bodensiek, Spencer Aaltonen, Jake Dewey**

**NAY: None**

## **CONTINUED TO FEBRUARY 8, 2017 AT 7:00 PM**

**Brian reads the following into the record:**

### **New Business**

**7:00 PM Comprehensive Permit No. 1994-24**

**Founders Court**

Founders Court Preservation Associates, LLP under the management of Preservation of Affordable Housing, Inc. has requested a modification of Comprehensive Permit No. 1987-27, as amended by Permit No. 1994-24 – Founders Court. The Applicant seeks to amend the unit type specified in the permit to recognize the 16 “two-bedroom plus loft” units as three-bedroom units. The subject property is located at 979 Falmouth Road/Rte. 28, Hyannis, MA as shown on Assessor’s Map 250 as Parcel 001.

**Members assigned tonight: Brian Florence, David Hirsch, Herbert Bodensiek, Matthew Levesque, Spencer Aaltonen**

**Representative: Julie Cramer. Also with here are Laura Shufelt and Peter Freeman from the board of directors of Founders Court.**

**Julie Creamer states that she works for developer and was here on December 14<sup>th</sup>. At that meeting there were questions as to whether the Board of Health has the units listed as three (3) bedrooms and has documentation to the affect.**

**Jake Dewey asks why this is important that Founders Court modifies the previous permit to list the units as three bedroom units and not two bedroom with a loft. Ms. Creamer states that when they refinanced, the tax equity for the project the financing requires a more decisive unit count than 2+loft. She states that the units have been functioning as 3 bedroom units and this will allow them to reach a broader pool of residents when marketed. When they reviewed the income history, it makes sense for this to be 3 bedroom units. Brian asks for documentation from the Board of Health.**

**Brian Florence asks for public comment. No one speaks.**

**David Hirsch makes findings:**

### **Findings of Fact**

1. By reference, the Board incorporates all finding of fact with regards to standing and consistency with local needs made in Comprehensive Permit Nos. 1987-27 & 1994-24.
2. On November 21, 2016, Founders Court Preservation Associates, LLP submitted a request to modify a comprehensive permit to the Zoning Board of Appeals Office. The application seeks recognize the units referred to as “two-bedroom plus loft” unit in the permit as three bedroom units. At a hearing on December 14, 2016, the Board found the request constituted a substantial modification and required a public hearing.



3. The subject property is located at 979 Falmouth Road/Route 28, Hyannis as shown on Assessor's Map 250 as Parcel 001. The property is owned by Founders Court Preservation Associates, LLP, c/o Preservation of Affordable Housing, Inc.
4. According to the Department of Housing and Community Development's December 5, 2014 Subsidized Housing Inventory (SHI) the Town of Barnstable had a total of 1,373 low or moderate income housing units, or 6.7% of the total housing stock. The Town has not met the goal of Chapter 40B to provide 10% of its year round housing stock as affordable housing nor has it satisfied any of the statutory minima.
5. The development consists of 32 rental units in five buildings, plus an on-site daycare facility. The comprehensive permit refers to two unit types: sixteen "two-bedroom" units and sixteen "two-bedroom plus loft" units. The project was constructed in accordance with the 1994 Comprehensive Permit and has been fully occupied.
6. The inspection certificates issued by the Building Division have historically recognized the "two-bedroom with loft" units as three-bedroom units. Those units are also registered with the Board of Health as three-bedroom units.

**Vote:**

**All in favor**

**Motion is made by Hirsch to grant with the following conditions:**

**Conditions**

1. This modification is granted to recognize the 16 units referred to as "two-bedroom plus loft" unit in the permit as three bedroom units.
  - a. Condition No. 2(a) of the permit shall be modified to reflect 16 two-bedroom units and 16 three-bedroom units.
2. All terms, conditions and restrictions of Comprehensive Permit No. 1987-27 and 1994-24, as modified, shall remain in full force and effect except as further modified and conditioned herein.
3. This decision shall be recorded at the Barnstable Registry of Deeds. A copy of the recorded document shall be submitted to the Zoning Board of Appeals file.

**Seconded by Herbert Bodensiek**

**Vote:**

**All in favor**

**GRANTED WITH CONDITIONS**

**Brian reads the following into the record:**

**7:03 PM Appeal No. 2017-003**

**Paresky**

Paul S. and Irene G. Paresky have applied for a Special Permit pursuant to §240-91.H(3) Nonconforming Lots – Developed Lot Protection. The applicants are proposing to demolish an existing 1,804 square foot dwelling and construct a new, 2,335 square foot single-family dwelling on a lot that contains less than 10,000 square feet. The property is located at 123 Seventh Avenue, Hyannis, MA as shown on Assessor's Map 245 as Parcel 054. It is located in the Residencee B (RB) Zoning District.

**Members assigned: Brian Florence, David Hirsch, Herbert Bodensiek, Matthew Levesque, Jake Dewey**

**Representative: Albert Schulz, Esq. Attorney Schulz hands in pictures for the board (Exhibit A).**

**Attorney Schulz gives summary of relief being requested and his memo. He states that the applicant has been before the Conservation Commission who issued an Order of Conditions which included raising the structure out of the flood zone and moving the house landward four feet. The proposed new dwelling meets the dimensional except for lot size. They will also be reducing the lot coverage by 2% by eliminating the two decks and instead have substituted a patio on the ground level. He states that Floor Area Ratio (FAR) is about 22% currently and that the proposed FAR will be 27.2%. Height will be to the peak = 28 feet. He doesn't think that any of the abutter's views will be affected and the arborvitaes will block the view of the deck. The patio will be slightly higher than the existing deck by approximately two feet but doesn't feel the view will be impaired. They**

*have spoken with the abutter's architect. Also with Attorney Schulz this evening are John O'Day from Sullivan Engineering, Mike Collins the architect for this project and the owner of the property, Paul Paresky.*

**Brian asks for public comment**

*Peter Haig of AD Architects, architectural designer for the Coyne's property at 115 Seventh Avenue speaks. He was asked by the Coyne's, abutters to the north, to speak on this. He states that the Coyne's would like to give kudos to the design team and applicant for the proposed project, for being forthcoming in giving information so that they could assess the impact. He states that there is very little impact on the Coyne's view and is in support of what they are doing.*

**The board discusses.**

**Matt Levesque makes findings:**

Paul S. and Irene G. Paresky have applied for a Special Permit pursuant to §240-91.H(3) Nonconforming Lots – Developed Lot Protection. The applicants are proposing to demolish an existing 1,804 square foot dwelling and construct a new, 2,335 square foot single-family dwelling on a lot that contains less than 10,000 square feet. The property is located at 123 Seventh Avenue, Hyannis, MA as shown on Assessor's Map 245 as Parcel 054. It is located in the Residence B (RB) Zoning District.

#### Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot containing less than 10,000 square feet by Special Permit.
- Site Plan Review is not required for single-family residential dwellings.
- 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.

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The proposed setbacks will comply with the requirements of the Residence B Zoning District.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 18.1%.
- The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is .272%.
- The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The proposed height is 21 feet 4 inches to top of plate (30 feet maximum) and the proposed dwelling is 2 stories.

The Board is also asked to find that:

- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

**Vote:**

**All in favor**

**Matt Levesque makes a motion to grant with the following conditions as outlined on the staff report dated December 20, 2016 being Conditions 1 through 6:**

#### Suggested Conditions

Should the Board find to grant the Special Permit No. 2017-003, it may wish to consider the following conditions:

1. Special Permit No. 2017-003 is granted to Paul S. and Irene G. Paresky for the demolition of an existing dwelling and construction of a 2,335 square foot dwelling at 123 Seventh Avenue, West Hyannisport.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 123 Seventh Avenue Barnstable (Hyannis) Mass prepared for Paul & Irene Paresky dated November 22, 2016, with a last revision date of December 2, 2016 drawn and stamped by Sullivan Engineering & Consulting; and the floor plans and elevations dated November 29, 2016 by D. Michael Collins Architects.
3. The total lot coverage of all structures on the lot shall not exceed 18.1% and the floor-area ratio shall not exceed .272%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
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 building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

**Vote:**

**All in favor**

## GRANTED WITH CONDITONS

**Brian Florence reads the following into the record:**

**7:04 PM Appeal No. 2017-004**

**Parrella**

David Parrella has applied for a Special Permit pursuant to §240-91.H(3) Nonconforming Lots – Developed Lot Protection. The applicant is proposing to demolish an existing 1,104 square foot dwelling and construct a new, four-bedroom single-family dwelling with an attached garage not in compliance with today's setback requirements, but more conforming than the existing structure. The property is located at 194 Washington Avenue, Osterville, MA as shown on Assessor's Map 139 as Parcel 084. It is located in the Residence F-1 and Resource Protection Overlay Zoning Districts.

**Members assigned: Brian Florence, David Hirsch, Herbert Bodensiek, Spencer Aaltonen, Jake Dewey**  
**Representative: Attorney Philip Boudreau. Also with him tonight are David and Cynthia Parrella.**

**Attorney Boudreau explains that the applicants can do a demo/rebuild as of right because of the lot size but not because of the setback. They want to bring the proposed dwelling more in line with the required setbacks but will not conform to them. He wants to make a correction to the staff report which reported that it was a one-bedroom, which it is not, it is a two-bedroom and has a 3 bedroom septic. The applicant has an approval for a 4-bedroom septic and has approval from the Barnstable Historical Commission to demolish the existing dwelling. He also wants to correct that it will be 30' to the roof ridge and 27' to the highest top of plate from ground level which he states is in the plans. Attorney Boudreau states that the rationale for it not be centered is because the abutting house is close to the lot line and in order to retain existing trees. This house will also be in line with the surrounding houses and will be a benefit to the neighborhood and had no historic significance.**

**Brian Florence asks if Attorney Boudreau has any existing photos. Attorney Boudreau does not.**

**Jake Dewey asks if Mr. Parrella had met with the neighbors. Mr. Parrella has spoken with the abutters and they are very happy and are in support.**

**Brian Florence asks for public comment. No one speaks.**

**Herb Bodensiek makes findings:**



## Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot by Special Permit.
- Site Plan Review is not required for single-family residential dwellings.
- 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.

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The proposed setbacks will be greater than the existing setbacks.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 19.8%.
- The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is 29.78%.
- The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The proposed height is 30 feet to top of plate (30 feet maximum) and the proposed dwelling is 2 1/2 stories.

The Board is also asked to find that:

- The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

### ***Vote:***

***All in favor***

### **Herb makes a motion to grant with the following conditions:**

#### **Conditions**

1. Special Permit No. 2017-004 is granted to David Parrella for the demolition of an existing dwelling and construction of a 3,078 square foot dwelling at 194 Washington Ave, Osterville.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan – Proposed Improvements for #194 Washington Avenue prepared for Barnstable Harbor Builders" dated December 7, 2016 drawn and stamped by Falmouth Engineering; and the floor plans and elevations dated December 14, 2016 by Barnstable Harbor Builders.
3. The total lot coverage of all structures on the lot shall not exceed 19.8% and the floor-area ratio shall not exceed 29.78%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
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 building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

***Secinded by Spencer Aaltonen***

### ***Vote:***

***All in favor***

## GRANTED WITH CONDITIONS

### Correspondence

Received 12-15-16 – The Department of Housing and Community Development (DHCD) has issued a Subsidized Housing Inventory (SHI) Biennial Update dated November 29, 2016. DHCD is in the process of updating the Chapter 40B SHI.

Received 12-21-16 – The Planning Board and Town Council will hold a joint public hearing on Proposed Zoning Amendment – TC Item No. 2017-045 – Amending the Code of the Town of Barnstable, Part 1 General Ordinances, Chapter 240 Zoning by adding a Gateway Medical District – January 5, 2017.

### Matters Not Reasonably Anticipated by the Chair

### Upcoming Meetings

### Adjournment

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

*Vote:*

*All in favor*

Approved