



Town of Barnstable

Zoning Board of Appeals



www.town.barnstable.ma.us/ZoningBoard

Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
 Robin Young – Regular Member Jacob Dewey – Regular Member Paul Pinard – Associate Member Kyle Evancoe – Associate Member
 Todd Walantis – Associate Member Mark Hansen – Associate Member
 James Tinsley – Town Council Liaison

Minutes

Wednesday, April 11, 2018

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

Alex Rodolakis - Chair	Absent
David Hirsch – Vice Chair	Present
Herbert Bodensiek - Clerk	Present
Robin Young	Absent
Jacob Dewey	Present
Paul Pinard	Present
Kyle Evancoe	Present
Todd Walantis	Present
Mark Hansen	Present

Also present were Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant

Since a quorum has been met, Vice-Chair David Hirsch calls the hearing to order.

Call to Order

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

David Hirsch reads the following with no response:

Notice of Recording

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

New Business

7:00 PM Appeal No. 2018-015 Amended

JNJ Holdings, LLC

JNJ Holdings, LLC have applied for a Special Permit under Section 240-25 HB Conditional Use, Section 240-35 Well Protection Overlay District, Section 240-53 Landscape Requirements for Parking Lots and Setbacks, Section 240-54 Location of parking lot in relationship to building, and Section 240-57 Circumstances Warranting Reduction of Requirements. The Applicant is proposing to demolish the existing structure, remove the underground tanks, and construct quick change oil and auto repair facility building of 6,324 square feet, nine service bays, with paving and landscaping. There will be three bays for oil changing, one bay for alignments, one bay for inspections, and four bays for auto repair. The property is located at 326 West Main Street, Hyannis, MA as shown on Assessors Map 269 Parcel 159. It is located in the Highway Business (HB) and Residence B (RB) Zoning Districts and Well Protection (WP) Overlay District. **This Appeal was continued for re-advertising.**

David reads the letter to continue (Exhibit A)

Motion to continue this to April 25, 2018 at 7:00 pm is made by Paul Pinard and seconded by Kyle Evancoe

Vote:

All in favor

CONTINUED TO APRIL 25, 2018 AT 7:00 PM

David reads the following into the record:

7:01 PM Appeal No. 2018-022

Wrenn & Jacobson, Trustees

Donna J. Wrenn and Marc B. Jacobson, Trustees of the HTH Property Management Realty Trust have applied for a Special Permit in accordance with Section 240-11 RD-1 Residential Districts and Section 240-94 Nonconforming Use. The applicants are seeking to legitimize the seven-bedroom Bed & Breakfast called the Long Dell Inn. The property is located at 436 South Main Street, Centerville, MA as shown on Assessors Map 207 Parcel 006. It is located in the Residence D-1 (RD-1) Zoning District.

7:02 PM Appeal No. 2018-023

Wrenn & Jacobson, Trustees

Donna J. Wrenn and Marc B. Jacobson, Trustees of the HTH Property Management Realty Trust, have petitioned for a modification of Variance No. 1960-27 in the alternative to Appeal No. 2018-022. The Petitioners are seeking to clarify that the original variance was to allow the second floor of the Carriage House to be used as a long term rental unit at the Bed & Breakfast called the Long Dell Inn. The property is located at 436 South Main Street, Centerville, MA as shown on Assessors Map 207 Parcel 006. It is located in the Residence D-1 (RD-1) Zoning District.

Members assigned: David Hirsch, Herb Bodensiek, Jake Dewey, Kyle Evancoe, Todd Walantis

Representative: Attorney Paul Tardif. Attorney Tardif gives a summary of existing conditions and states that the lot is improved with two structure and a two-room accessory carriage house built approximately in 1835. It has been used as a Bed & Breakfast (B&B) for a very long time. The new owners believed that it was a seven (7) room guest bedroom structure and had counted the owner's quarters as the eighth (8th) bedroom. The current owners purchased the property in 2012 but had encountered problems this year with the town's Building Department. The Building Department showed five (5) bedrooms and wasn't sure where the seventh bedroom came from. They did find a variance and floor plans from 1960 but the Building Commissioner suggested they appear before the Zoning Board of Appeals in order to clarify. With him tonight is Mr. Carroll, the original owner of the B&B who was granted the variance in 1960. They would like the special permit in place that shows that they can rent seven guest rooms and an owner's quarters and that to clarify that the variance that was issued in 1960 which is still valid and in use, affects only the third (3rd) floor of the carriage house which is only one (1) rental which they don't rent much but which has cooking facilities. He did previously submit a memo and floor plans.

Mr. Carroll speaks and states that his wife and he purchased the property in 1953 from Etha Hooper who ran it for seventeen (17) years. They took it as is and ran it for 36 years. The apartment in the carriage house was rented during the summer initially but found that they wanted to put a sink so that guests could stay longer. He refers to other dwellings in the area that have apartments.

Jake Dewey makes findings:

Special Permit No. 2018-022

Donna J. Wrenn and Marc B. Jacobson, Trustees of the HTH Property Management Realty Trust have applied for a Special Permit in accordance with Section 240-11 RD-1 Residential Districts and Section 240-94 Nonconforming Use. The applicants are seeking to legitimize the seven-bedroom Bed & Breakfast called the Long Dell Inn. The property is located at 436 South Main Street, Centerville, MA as shown on Assessors Map 207 Parcel 006. It is located in the Residence D-1 (RD-1) Zoning District.

Variance No. 2018-023

Donna J. Wrenn and Marc B. Jacobson, Trustees of the HTH Property Management Realty Trust, have petitioned for a modification of Variance No. 1960-21* in the alternative to Appeal No. 2018-022. The Petitioners are seeking to clarify that the original variance was to allow the second floor of the Carriage House to be used as a long term rental unit at the Bed & Breakfast called the Long Dell Inn. The property is located at 436 South Main Street, Centerville, MA as shown on Assessors Map 207 Parcel 006. It is located in the Residence D-1 (RD-1) Zoning District.

**Due to an almost unreadable copy, the Variance number appeared to read 1960-27. Later, a better copy was discovered and the Variance No. is actually 1960-21.*

Proposal & Relief Requested

The Applicants are seeking to legitimize the seven-bedroom Bed & Breakfast called the Long Dell Inn with one bedroom owners' quarters for a total of eight bedrooms. The principal legal benefit of the Applicants proposal is to clean up the prior history and have one Special Permit clearly stating what the use is moving forward and to clarify the existing Variance.

Proposed 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.

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

Section 240-11 C. (6) allows for Bed and Breakfast use, subject to conditions [1] – [8] below.

(6) Bed-and-breakfast.

[1] The bed-and-breakfast operation shall be located within an existing, owner-occupied single-family residential dwelling constructed prior to 1970 containing a minimum of four bedrooms as of December 1, 1996.

[2] No more than three bedrooms shall be rented for bed-and-breakfast to a total of six guests at any one time. For the purpose of this section, children under the age of 12 years shall not be considered in the total number of guests.

The property is preexisting nonconforming because it has historically had eight bedrooms.

[3] No cooking facilities including but not limited to stoves, microwave ovens, toaster ovens and hot plates shall be available to guests, and no meals except breakfast shall be served to guests.

[4] The owner of the property shall be responsible for the operation of the property and shall be resident when the bed-and-breakfast is in operation. The owner shall file an affidavit with the Building Commissioner on an annual basis in the month of January stating that the property is the principal residence of the owner and that the owner is resident all times that the bed-and-breakfast is being operated. If the affidavit is not filed, the operation shall cease forthwith and any special permit issued shall be considered null and void. The requirement for filing of an affidavit shall not apply to bed-and-breakfast operations legally established prior to October 1, 1996.

[5] The single-family residence in which the bed-and-breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a single-family residence.

[6] If the property is not served by public water, the applicant shall provide evidence to the Zoning Board of Appeals that the proposed use will not have any detrimental impact on any private water supply on site or off site.

[7] No parking shall be located in any required building yard setback, and parking areas shall be screened from adjoining residential properties by a fence or dense plantings, not less than five feet in height. Parking areas may be permitted in front of the house, not within the required building front yard setback, provided that the Zoning Board of Appeals finds that the spaces are designed and located in a manner which retains the residential character of the property. Grass overflow areas may be utilized for parking, provided these are maintained with a grass ground cover in good condition.

[8] The special permit for the bed-and-breakfast conditional use operation shall be issued to the owner only and is not transferable to a subsequent property owner. This provision shall only apply to bed-and-breakfast conditional use operations established in residential districts.

2. 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.

3. A site plan has been reviewed and found approvable (letter pending).

Section 240-94 A. requires the Board to find:

4. The proposed expansion of the dwelling will not be substantially more detrimental to the neighborhood than the existing building or structure. AND:

(1) The applicant has received all necessary approvals from the Board of Health.

(2) 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.

Vote:

All in favor

Motion is made by Jake Dewey to grant the relief requested with the following conditions:

Suggested Conditions

Should the Board find to grant the Special Permit No. 2018-022 and Variance No. 2018-023, a modification/clarification of Variance No. 1960-21, it may wish to consider the following conditions:

1. Special Permit No. 2018-022 and Variance No. 2018-023 is granted to Donna J. Wrenn and Marc B. Jacobson, as Trustees of the HTH Property Management Realty Trust, to allow for the continued use of a Bed & Breakfast as existing with 7 guestrooms and one bedroom owners quarters for a total of 8 bedrooms. The property is located at 436 South Main Street, Centerville, MA.
2. This clarification of the existing conditions shall represent full build-out of the lot. No increase in building coverage or gross square footage shall be permitted without prior approval of this Board.
3. Variance No. 1960-021 remains in full effect but clarified to allow for an apartment on the second floor of the accessory structure (Carriage House).
4. 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.

Vote:
All in favor

GRANTED WITH CONDITIONS

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

April 25, 2018, May 9, 2018, May 23, 2018

Adjournment

Motion Is made by Herb Bodensiek and seconded by Paul Pinard to adjourn

Vote:
All in favor

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Board may go into executive session. The Board may also act on items in an order other than they appear on this agenda.

* Public files are available for viewing during normal business hours at the Zoning Board of Appeals office located at 200 Main Street, Hyannis, MA