



Town of Barnstable Zoning Board of Appeals



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Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
 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

Staff Support

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

Minutes

Wednesday, May 23, 2018

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

Alex Rodolakis - Chair	Present
David Hirsch – Vice Chair	Present
Herbert Bodensiek - Clerk	Present
Jacob Dewey – Regular Member	Absent
Regular Member	Vacant
Paul Pinard – Associate Member	Present
Kyle Evancoe – Associate Member	Present
Todd Walantis – Associate Member	Present
Mark Hansen – Associate Member	Present

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

As a quorum has been met, Alex calls the hearing to order at 7:02 PM

Call to Order

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

Alex 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.

Old Business

Alex reads the following into the record:

New Business

7:00 PM Appeal No. 2018-029

Cost Plus of Massachusetts, LLC

Cost Plus of Massachusetts, LLC, as leasee, has applied for a modification of Conditional Use Special Permit No. 2000-43. The Applicant is seeking to make internal alterations to accommodate 1,050 square feet for the display and sale of wine and malt beverages and in accordance with the privileges of the Section 15 Package Store License, limited tastings. The property is located at 621 Hyannough Road, Hyannis MA and 31 Nightingale Lane, Hyannis as shown on Assessor’s Map 311 as Parcel 004 and Parcel 089. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

Members assigned: Alex Rodolakis, David Hirsch, Herb Bodensiek, Kyle Evancoe, Todd Walantis

Representative: Andrew Upton, Julie Dalton – Liquor License Manager, Steve Schrack – Regional Manager for the Northeast and Mark Dillon – General Manager of the Hyannis store and will be the manager on record for the liquor license.

One of several steps in getting a liquor license was that they needed to go to Site Plan Review and to also get the landlord's permission. The current business has been there for some time and in order to be competitive they wanted to change their business model to include tastings, etc. Cost plus is a national chain, 277 stores and of those, 200 have liquor licenses. If liquor is purchased, ID is required. There will be no changes to the exterior of the building. The only change will be for a small carved out section internally which will be 6.9% of the total floor area. They sell a unique product selection. They have a loyal customer base and demand. 750 people have signed a petition in the last month for their request for a liquor license (beer and wine). Julie Dalton speaks about unique product selection and how they categorize the wine, flavor profile wall, country of origin, etc. There will be an unique selection from over 52 countries all over the world. Mark Hansen asks if this will be providing a different product. Julie says they sell unique, affordable, craft oriented beers. Herb Bodensiek asks how this will increase the customer base. Julie says they have their own parking lot so customers can pull in. Steve Schrak – Regional Manager for the Northeast states that this is an incremental use and that people are coming in to purchase beer/wine along with other products. He states that they will be assuming a liquor license. Kyle Evancoe asks that the petition be submitted for the record. Alex confirms that the beer and wine will not be refrigerated.

Alex asks for public comment. No one speaks.

Kyle Evancoe makes findings:

The Applicant is proposing to modify Special Permit 2000-43 with the addition of wine and malt beverage for display and sale. There will be internal alterations on the sales floor to accommodate the 1,050 square foot display and sale area. There will be no changes to the exterior of the building or site.

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. This is a modification of conditions of Special Permit No. 2000-43 for relief granted under Section 240-25.**
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 with conditions. (see letter dated April 2, 2018).**
Further, Section 240-25 (C) (1) (a) requires the Board to find that:
4. **Such uses do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.**

Vote:

All in favor

Kyle Evancoe makes a motion to grant the relief being sought with the following conditions:

Conditions

1. Special Permit No. 2018-029 is granted to Cost Plus of Massachusetts LLC, as leasee, for a modification of Conditional Use Special Permit 2000-43 for the display and sale of wine and malt beverages. The property is located at 621 Iyannough Road and 31 Nightingale Lane, Hyannis, MA.
2. Special Permit No. 2000-43 Condition No. 1 shall be modified to include the display and sale of wine and malt beverages in approximately 1,050 square feet of floor area as shown in floor plans dated February 22, 2018.
3. Special Permit No. 2000-43 Condition No. 2 shall be modified to include the display and sale of wine and malt beverages as a second use.
4. All other conditions set forth in Special Permit No. 2000-43 shall remain in full force and effect.
5. 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 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

Alex reads the following into the record:

7:01 PM Appeal No. 2018-030

Centco, LLC

Centco, LLC, has applied for a Conditional Use Special Permit in the HB Business District pursuant to Section 240-25 C. of the Ordinance. The Applicant is seeking to renovate the existing 3,440 square foot building including new kitchen, new restrooms and updated fire suppression system, to create a new 120 seat restaurant/nightclub. The property is located at 959 Bearse's Way, Hyannis MA as shown on Assessor's Map 273 as Parcel 124. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

Members assigned: Alex Rodolakis, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard
Representative: Mark Boudreau Esq., here with Dennis Aceto, Mike. Gannon and the designer Gary Ellis.

Attorney Boudreau gives history and background of the property. He explains that they are seeking a conditional use special permit which is allowed by virtue of its location and that this use will have minimum impact. Dennis Aceto speaks and says they will be remodeling the building which will include siding, roofing, ramps, and handicapped facilities. He shows a mock-up of what the outside will look like. They will also be building a new kitchen, bathrooms, bar, and handicapped accessible, deck.

Alex asks when the project will take place. Mr. Aceto is hoping to do this and be open by the end of July.

Alex notes that there is a letter (Exhibit A¹) from the Attorney Boudreau to the Brian Florence – Building Commissioner dated May 23, 2018, explaining that the agreement is for eighteen (18) parking spaces with the adjacent business (NAPA), with additional seven (7) spaces after 6:00 PM. asks if there are parking issues and that a letter from the Building Department. Attorney Boudreau explains that the parking license agreement is with the NAPA facility adjacent to this site and will be for the use of twenty-eight (28) off-site parking spots. He explains further that the restaurant needs one parking space for every three (3) seats and if the license goes away they are required to have a certified architect to the actual parking spaces and then their capacity would be abated and diminished accordingly. Dennis Aceto explains that they will have signs on the NAPA building directing when they can park there. They expect walk-in clientele from Cape Codder Hotel and Holiday Inn and perhaps an agreement with Cape Codder could be reached for parking also. Attorney Boudreau talks about the need for 2 handicapped spaces but that Site Plan Review (SPR) has five (5) listed but they are willing to comply if that is what is required.

Board member, Paul Pinard confirms that it is a year round establishment and asks about the plans for the deck during the winter. Mr. Aceto explains that perhaps they will have space heaters in the off-season perhaps making it a 3-season deck. David Hirsch asks about the hours of operation and is told by Mr. Aceto that they will be: 11:30 AM to 12:30 AM but not to be open for lunch, 7 days a week. Dennis Aceto explains that they cannot use the space at NAPA during the day, only at night.

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

Board deliberates.

Todd Walantis makes findings:

Proposal & Relief Requested

Centco, LLC, has applied for a Conditional Use Special Permit in the HB Business District pursuant to Section 240-25 C. of the Ordinance. The Applicant is seeking to renovate the existing one-story building including new kitchen, new restrooms and updated fire suppression system, to create a new 120 seat restaurant/nightclub and upgrade the site located at 959 Bearse's Way, Hyannis. Improvements will include:

- 25 additional parking spaces off-site (9 with a Parking Agreement),
- Upgrades to the interior with modern amenities,
- New fire alarm and sprinkler systems,
- ADA compliance,
- Landscaping,
- New roof and siding, and
- Security lighting and cameras and signage in the parking areas.

Special Permit Findings

¹ Exhibits are located in the corresponding ZBA file
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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.**

The proposed use is allowed under Section 240-25 with a Conditional Use Special Permit.

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 with conditions. (Letter pending).**

Further, Section 240-25 (C) (1) (a) requires the Board to find that:

4. **Such uses do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.**

Vote:

All in favor

Todd makes a motion to grant the relief being proposed with the following conditions:

Conditions

1. Special Permit No. 2018-030 is granted to Centco LLC for a Conditional Use Special Permit for the renovation and establishment of a restaurant/nightclub and site improvements at 959 Bears's Way, Hyannis, MA.
2. The improvements shall be in substantial conformance with the site plan entitled "Site Plan of #959 Bears's Way Hyannis MA" by Down Cape Engineering, Inc. dated March 12, 2018, and architectural plans by Gary A. Ellis dated February 20, 2018.
3. The Applicant must attain all required permits, approvals, and licenses for the proposed new use.
4. The Parking Agreement with the abutting property owner for 9 spaces must remain valid in order to maintain the required number of parking spaces or may be adjusted with the approval of the Building Commissioner.
5. All landscaping and landscape screening shall be maintained on the site.
6. Site Plan Review conditions of approval are hereby incorporated into this Decision.
7. 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 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 CONDITIONS

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

June 13, 2018, June 27, 2018

Adjournment

Motion is made by Alex Rodolakis and seconded by Paul Pinard to adjourn.

Vote:

All in favor