



Town of Barnstable

Zoning Board of Appeals



Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
Jacob Dewey – Regular Member Paul Pinard – Regular 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, August 8, 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	Present
Regular Member	Vacant
Paul Pinard – Associate Member	Present
Kyle Evancoe – Associate Member	Absent
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 Rodolakis opens the hearing at 7:01 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.

Minutes

April 11, 2018, April 25, 2018

A motion is made by David Hirsch and seconded by Paul Pinard to approve the minutes as submitted

Vote:

All in favor

Alex reads the following into the record:

Old Business

7:00 PM Appeal No. 2018-038

Kay

Sheree P. Kay has petitioned for a Variance pursuant to Section 240-14.E – Bulk Regulations in the Residence C-1 Zoning District. The petitioner is requesting relief from the required thirty (30) foot front yard setback in order to construct a 32' X 28' two-car garage approximately 19.9' from the front yard setback. The property is located at 109 Castlewood Circle, Hyannis, MA as shown on Assessor's Map 273 as Parcel 052. It is located in the Residence C-1 Zoning District.

Continued from July 11, 2018. Members assigned: Alex Rodolakis, David Hirsch, Herbert Bodensiek, Mark Hansen, Kyle Evancoe

Jake was the only one not present at the July 11th hearing.

Members assigned tonight: Alex Rodolakis, David Hirsch, Herb Bodensiek, Mark Hansen, Paul Pinard

Representative: David Lawler, Esq.

Attorney Lawler did a landscape plan as requested. He visited the property with a tape measure and the ground is about a foot lower where the garage is. There are stand alone garages in the neighborhood, some with breezeways. Most of them are one car. There are some larger garages that are equivalent size to this. As for the absence of abutters, he understands that an abutter has emailed staff asking that it be in keeping with other garages and believes they are doing that. One of the main purposes of the garage is so that the applicant can utilize it in order to fix things inside. If there are any other landscaping changes that the board wants to make, they are agreeable. The front will be in alignment with the front porch.

Alex states there is an email from the owners of 119 Castlewood Circle. Alex reads it (Exhibit A).

Paul Pinard asks for confirmation as to what the size of the garage will be since there seems to be a conflict on what was applied for and what is on the plan. Attorney Lawler doesn't believe they need to approve the size, just how many feet from the street. Alex would like, if this is approved, to have the exact dimensions for approval. Paul Pinard clarifies that it will be 32 x 24.5 and 25.6 feet from the street. Todd asks if, once the garage is built, will the storage container on-site be removed? Attorney Lawler states yes and will accept that as a condition. Jake asks if the sheds will be staying. Lawler answers yes. Alex doesn't like the sheds being there and notes that the staff report says that this will be full build-out of the lot without further approval from this board. Attorney Lawler says they are existing garden sheds and that no neighbor has complained.

Alex asks for public comment. No one speaks.

Paul Pinard makes findings:

Variance Findings

Sheree P. Kay has petitioned for a Variance to Section 240-14.E – Bulk Regulations in the Residence C-1 Zoning District. The petitioner is requesting relief from the required thirty (30) foot front yard setback in order to construct a 32 foot by 24.5 foot two-car garage approximately 25.6 feet from the front yard setback. According to the application, the location of the septic system prevents the petitioner from constructing the garage in compliance with setbacks.

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 in order to consider granting the variance:

1. 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;
2. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
3. 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

Paul Pinard makes a motion to grant with the following conditions:

Variance Conditions

1. Variance No. 2018-038 is granted to Sheree P. Kay, Trustee, to allow the construction of a 2-car garage within the front yard setback at 109 Castlewood Circle, Hyannis MA.
2. The proposed two-car garage shall not be located closer than 25 feet from the front yard setback and shall not exceed a footprint of 32 feet by 24.5 feet. Should be changes from the front yard setback
3. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of #109 Castlewood Circle, Hyannis MA" prepared for SPK Family Realty Trust dated June 19, 2018 drawn and stamped by Down Cape Engineering.
4. The proposed development shall represent full build-out of the lot. No further development shall be permitted without approval from the Board.
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 of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.
6. **Within 60 days of the occupancy permit the steel container will be removed**

Vote:

All in favor

GRANTED WITH CONDITIONS

New Business

7:01 PM Appeal No. 2018-040

Pryshlak

Adrian and Mary Pryshlak have applied for a Special Permit pursuant to Section 240-47.1 Family Apartments. The Applicants are seeking relief in order to construct a 28 foot by 46 foot detached three car garage with a 3 bedroom family apartment above. The subject property is located at 48 Main Street, Osterville, MA as shown on Assessor's Map 185 Parcel 004. It is located in the Residence F-1 (RF-1) Zoning District.

Members assigned: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Todd Walantis

Representative: Christopher Kirrane, Esq. Attorney Kirrane states that there was confusion about the number of bedrooms and the septic system. The request is not for 3 bedrooms. Given that, the only reason they are here is because it is detached and meets the special permit requirements.

Jake asks if the structure currently exists. Attorney Kirrane states that he believes the construction has started and that the intention was for it to be living quarters.

His client understands that it will be limited to two adults.

Alex asks for public comment. No one speaks.

Todd Walantis comments that he is okay with the proposal.

Todd Walantis makes findings:

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 240-47.1. B. allows a Special Permit for a three bedroom Family Apartment in a detached structure.
2. Site Plan Review is not required for single-family residential dwellings.
3. 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 Board is also asked to find that:

4. The proposed new garage with a family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.
5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.

Alex amends that it will be only a two bedroom and not a three bedroom family apartment.

Vote:

All in favor

Todd makes a motion to grant with the following conditions:

Conditions

1. Special Permit No. 2018-040 is granted to Adrian and Mary Pryshlak to create a **three** two bedroom family apartment above a detached garage at 48 Main Street, Osterville, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Proposed Improvements Plan of Land at 48 Main Street Barnstable (Osterville) Mass" prepared for Adrian P. and Mary L. Pryshlak, drawn by Sullivan Engineering & Consulting and CapeSurv dated January 23, 2017 with the last revision date of March 27, 2018 and architectural drawings by Fine Line.
3. The proposed development 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.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance (see above).

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 the issuance of a 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

Received July 25, 2018 from Planning Board – Notice of Joint Public Hearing of the Planning Board and Town Council on Thursday, August 9, 2018 at 7:00 PM regarding Proposed Zoning Amendment to add regulations for establishing and operating registered recreational marijuana research facilities and independent testing laboratories and prohibiting all other non-medical marijuana establishments.

2019-009 Amending Chapter 240, the Zoning Ordinances to add regulations for establishing and operating registered recreational marijuana research facilities and independent testing laboratories and prohibiting all other non-medical marijuana establishments

(Joint Public Hearing with Planning Board)

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

August 22, 2018, September 12, 2018, September 26, 2018

Adjournment

Motion is made by Paul Pinard and seconded by David Hirsch to adjourn

Vote:

All in favor