

**Zoning Board of Appeals
MINUTES
Wednesday, April 9, 2025
7:00 PM**

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, April 9, 2025, at the time indicated:

Call to Order

Acting Chair Herb Bodensiek calls the meeting to order at 7:10 PM with an introduction of Board Members:

Member	Present	Absent
Dewey, Jacob – Chair		X
Bodensiek, Herbert – Vice Chair	X	
Pinard, Paul – Clerk		X
Alves, Manny		X
Hansen, Mark	X	
Hurwitz, Larry	X	
Pittenger, Natalie	X	
Tavano, Rodney		X
Webb, Aaron		X

Also present is Anna Brigham, Principal Planner and Genna Ziino, Administrative Assistant.

Notice of Recording

This meeting of the Zoning Board of Appeals is being recorded and broadcast on the Town of Barnstable's Government Access Channel. In accordance with MGL Chapter 30A §20, I must inquire whether anyone is recording this meeting and if so, to please make their presence known.

Minutes

December 11, 2024 - Mark Hansen moves to approve the minutes. Herb Bodensiek seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

February 26, 2025 - Mark Hansen moves to approve the minutes. Herb Bodensiek seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

March 12, 2025 - Mark Hansen moves to approve the minutes. Larry Hurwitz seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Old Business

7:00 PM

Appeal No. 2024-039

25 Falmouth Rd, LLC

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building Commissioner in issuing Building Permit BLDC 22-227, dated September 17, 2024. The permit was initially denied pending the receipt of a narrative to explain the expansion of the mechanical bays on the property. The Appellant's position is that the permit

fails to take into account evidence and documentation from the town records and files, which conflict with the determination to issue the Building Permit. The subject property is located at 95 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 073. It is located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, and February 12, 2025. No members assigned.

Acting Chair Herb Bodensiek also reads Appeal No. 2024-040 into the record:

7:01 PM

Appeal No. 2024-040

25 Falmouth Rd, LLC

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building Commissioner in a letter dated September 4, 2024. The Appellant believes that the determination fails to take into account evidence and documentation from the town records and files, which conflict with the determination and do not address the concerns raised as set forth in the Appellant's enforcement letters and correspondence. The subject property is located at 95 Falmouth Road and 123 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311, Parcels 073 and 078. Lots are located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, and February 12, 2025. No members assigned.

Attorney John Kenney is representing the property owner and requests to continue both appeals to May 14, 2025 because there are only 4 members present. He spoke with Attorney Mike Ford, the applicant, who also prefers to continue the appeals. Mark Hansen moves to continue Appeals No. 2024-039 and -040 to May 14, 2025 at 7 PM. Herb Bodensiek seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Appeals No. 2024-039 and 2024-040 25 Falmouth Rd, LLC are continued to May 14, 2025 at 7 PM.

7:02 PM

Appeal No. 2024-044

Sundelin

Richard Sundelin has applied for a Special Permit pursuant to Section 240-94 B. Nonconforming Use. The Applicant seeks relief to codify a preexisting, nonconforming use (auto repair) at the property. The subject property is located at 970 Main Street, West Barnstable, MA, as shown on Assessor's Map 156 as Parcel 026. It is located in the West Barnstable Village Business District (WBVBVD). Continued from January 8, 2025 and February 12, 2025. Members assigned: Dewey, Bodensiek, Hansen, Webb, and Hurwitz. On March 21, 2025, the Applicant's attorney requested a withdrawal without prejudice.

Attorney David Lawler is representing the applicant and requests to withdraw without prejudice. Acting Chair Bodensiek moves to accept the withdrawal without prejudice. Mark Hansen seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Special Permit No. 2024-044 Sundelin is withdrawn without prejudice.

7:03 PM

Appeal No. 2025-006

Clark

James D. Clark and Christine D. Clark have appealed an Administrative Officials Decision. The Petitioners are appealing the Notice of Zoning Ordinance request for enforcement denial dated January 24, 2025 under M.G.L. Chapter 40A Section 7. The Petitioners submit that the decision of the administrative official dated January 24, 2025 was in error as the structure was erected at 968 Main Street is not a "pole supported by wires/ropes and burlap" but was constructed by 4 x 4 lumber cemented into the earth extending approximately 20 feet into the air directly on the common property line draped with burlap which encroaches at 978 Main Street. The subject property is located at 978 Main Street, Cotuit, MA as shown on Assessor's Map 034 as Parcel 032. It is located in the Residence F (RF) Zoning District. Continued from March 26, 2025. Members assigned: Dewey, Bodensiek, Pinard, Hansen, Tavano.

Mark Hansen says the Board received a request from Attorney Michael Schulz to continue to April 23 at 7 PM. Herb Bodensiek seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Appeal No. 2025-006 Clark is continued to April 23, 2025 at 7 PM.

New Business

7:04 PM

Appeal No. 2025-007

Miklosky et al

Victoria Miklosky, Cynthia Foster, and Mary Curley have filed an Appeal of an Administrative Official's Decision in accordance with Chapter 240-91 Nonconforming Lot of the Barnstable Zoning Ordinance. The Appellants are appealing the Decision of the Building Commissioner in issuing Building Permit BLDC BLDR-25-14, dated February 7, 2025, issued to Michael Martin and property owned by TL Acquisitions LLC. The Appellants state the Building Permit should not have been issued as the premise is not a valid nonconforming lot under Section 240-91, the premises lack required legal frontage and access in the Private Way, and the project fails to comply with the Zoning Ordinance requirements applicable, including Special Permit. The subject property is located at 933 Main Street, Osterville, MA as shown on Assessor's Map 117 as Parcel 187. It is located in the Residence C (RC) Zoning District.

Acting Chair Bodensiek assigns himself, Mark Hansen, Natalie Pittenger, and Larry Hurwitz.

Attorney Jack McElhinny is representing the applicants and requests to continue to May 14, 2025. Herb Bodensiek moves to accept the request to continue to May 14. Larry Hurwitz seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Appeal No. 2025-007 Miklosky et al is continued to May 14, 2025.

7:05 PM

Appeal No. 2025-008

Noelle

Randolf J. and Barbara G. Noelle have applied for a Special Permit pursuant to Section 240-131.4 (D)(2(a) Change, Expansion, Alteration of structures. The Applicants are seeking to increase the height of the structure from 14.9 feet to 16.28 feet in connection with the demolition and construction of a dwelling in accordance with the plans by Sullivan Engineering & Consulting, Inc and James Phillip Golden Architect. The subject property is located at 34 Short Beach Road, Centerville, MA as shown on Assessor's Map 206 Parcel 041. It is located in the Craigville Beach District – Long Beach Short Beach (CBD-LBSB) in the District of Critical Planning Concern (DCPC).

Herb Bodensiek says the Board received a request from Attorney Schulz to continue to April 23, 2025. Mark Hansen seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Appeal No. 2025-008 Noelle is continued to April 23, 2025.

Correspondence

- Cape Cod Commission meeting for Captain Berties Way April 7, 2025 at 5:00 p.m. – Virtual Meeting
- Cape Cod Commission Committee meeting on Planning and Regulations April 10, 2025 at 1:30 p.m. – Hybrid Meeting
- Cape Cod Commission meeting April 10, 2025 at 3:00 p.m. – Hybrid Meeting

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

April 23, 2025 (remote), May 14, 2025 (in person), May 28, 2025 (remote)

Adjournment

Mark Hansen moves to adjourn. Natalie Pittenger seconds.

Vote:

Aye: Herb Bodensiek, Mark Hansen, Larry Hurwitz, Natalie Pittenger

Nay: None

Documents Used at This Meeting

- December 11, 2024 minutes
- February 26, 2025 minutes
- March 12, 2025 minutes
- Request from Attorney Michael Schulz to continue Appeal No. 2025-006 Clark
- Request from Attorney Michael Schulz to continue Appeal No. 2025-008 Noelle
- Correspondence: Cape Cod Commission meeting for Captain Berties Way April 7, 2025 at 5:00 p.m. – Virtual Meeting
- Correspondence: Cape Cod Commission Committee meeting on Planning and Regulations April 10, 2025 at 1:30 p.m. – Hybrid Meeting
- Correspondence: Cape Cod Commission meeting April 10, 2025 at 3:00 p.m. – Hybrid Meeting

Respectfully submitted,
Genna Ziino, Administrative Assistant

Further detail may be obtained by viewing the video via the Barnstable Government Access Channel on demand at town.barnstable.ma.us