



Town of Barnstable
Zoning Board of Appeals
Agenda
July 9, 2008

Revised as of 06-24-08

7:00 PM **Appeal 2008-039 - New** **Mueller & Paramount Enterprises, Inc.**
Appeal of Administrative Official

Staff Report and Application Materials enclosed

Amy L. and Carl E. Mueller & Paramount Enterprises Inc., have appealed the Building Division's issuance of an April 14, 2008 notice of zoning violation and order to cease and desist the operating of a landscape business in a residential zone. The notice cites that the use of the property is contrary to the permitted single-family use allowed under Section 240-11 of the Zoning Ordinance. The property is addressed as 22 Suomi Road Hyannis, MA and is shown on Assessor's Map 269 as parcel 102. The property is in a Residence B Zoning District.

7:15 PM **Appeal 2008-040 - New** **The 1995 Ferraro Family Investment Trust**
Appeal of Seeking Enforcement Action

Staff Report and Application Materials enclosed

Joseph P. & Brenda Ferraro, Trustees of the 1995 Ferraro Family Investment Trust have appealed to the Zoning Board of Appeals seeking enforcement action regarding the use of the property at 3206 Main Street, Route 6A, Barnstable, MA for "Nirvana Coffee". The subject property is shown on Assessor's Map 300 as parcel 008. The property is in the Village Business A Zoning District.

7:30 PM **Appeal 2008-041 - New** **Ellis**
Use Variance

A letter dated June 25, 2008 from Patrick M. Butler, Esq., has been received by this office requesting that this appeal be continued due to a conflict on another matter in Mashpee.

Susan W. Ellis has applied for a Use Variance. The applicant is seeking a variance from Section 240-11.A, Principal Permitted Uses, to allow for a second detached dwelling unit on the lot where zoning only allows one single-family dwelling unit per lot. The second dwelling is a former family apartment created within a detached accessory garage/barn structure located on the lot. The subject property is shown on Assessor's Map 208 as parcel 121, addressed as 393 Main Street, Centerville, MA. The property is in a Residence D-1 Zoning District and a Resource Protection Overlay District.

7:45 PM

Appeal 2008-046 - New

Costello

Bulk Variance Minimum Lot Area

Staff Report and Application Materials enclosed

Steven M. & Nancy M. Costello have applied for a Bulk Variance to Section 240-13.E, Minimum Lot Area. The applicants are seeking the variance for a 21,000 sq.ft., undersized lot that has lost its buildability under zoning. The lot does not conform to the minimum 1-acre requirement for the zoning district or the minimum 2-acre requirement for the Resource Protection Overlay District. The property is shown on Assessor's Map 140 as parcel 136. It is addressed as 40 Woodland Avenue, Osterville, MA in a Residence C Zoning District and a Resource Protection Overlay District.

8:00 PM

Appeals 2008-029 to 034 - Continued

Cardarelli

Noticed for May 21, 2008, Opened June 11, 2008 and continued to July 9, 2008

No Members Assigned, No testimony Taken

Staff anticipates materials to be forthcoming and will send once received.

Appeal 2008-034

Cardarelli

Bulk Variance to Reconfiguration Lots

John F. Cardarelli has applied for a Variance to Section 240-25.E, Bulk Regulations, minimum front yard setback. The variance is sought in conjunction with a reconfiguration of the subject lots in order to allow the existing nonconforming building addressed as 644 West Main Street, Hyannis MA to remain situated 53.7 feet off West Main Street when zoning requires a 60-foot front yard setback. The subject property is shown as "Lot A" on plans submitted. That lot being a part of the reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business and Residence B Zoning.

Appeal 2008-030

Cardarelli

Conditional Use Special Permit – Restaurant

John F. Cardarelli has petitioned for a Conditional Use Special Permit pursuant to Section 240-25.C of the Zoning Ordinance. The petitioner seeks the permit to allow for the operation of the existing restaurant and existing apartments located above. It is to include accessory retail sales as related to the restaurant business. The permit is for the existing building addressed as 644 West Main Street, Hyannis MA situated on the reconfigured "Lot A" shown on plans submitted. That lot being a part of the reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business and Residence B Zoning.

Appeal 2008-031

**Cardarelli
Conditional Use Special Permit – Retail Sales
Seafood**

John F. Cardarelli has petitioned for a Conditional Use Special Permit pursuant to Section 240-25.C of the Zoning Ordinance. The petitioner seeks the permit to allow for the redevelopment of "Lot B" shown on the plan submitted with a 7,103 sq.ft., building to be used as wholesale and retail sales of seafood, including accessory office space for the business. Lot B is a part of the reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business and Residence B Zoning.

Appeal 2008-029

**Cardarelli
Permit Preexisting Structural Nonconformity Lot
A**

John F. Cardarelli has petitioned for a Special Permit pursuant to Section 240-93.B of the Zoning Ordinance for the alterations or expansions in a pre-existing nonconforming building or structure. The petitioner seeks the permit to allow for the existing restaurant on a proposed "Lot A" and the redevelopment on proposed "Lot B" as shown on a plan submitted. The permit is sought for the accessory site improvements of parking and landscaping. The proposed improvements do not conform to the specific requirements of zoning but are no more nonconforming than the existing site conditions. They include front yard landscaping and parking requirements, and lot coverage for Lot A. The lots are a reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business, Residence B Zoning and is located in a Groundwater Protection Overlay District.

Appeal 2008-032

**Cardarelli
Permit Preexisting Structural Nonconformity Lot
B**

John F. Cardarelli has petitioned for a Special Permit pursuant to Section 240-93.B of the Zoning Ordinance for the alterations or expansions in a preexisting nonconforming building or structure. The petitioner seeks the permit to allow for the proposed redevelopment on a proposed "Lot B" shown on a plan submitted. The permit is sought for allow the development of the 7,103 sq.ft., building to be located 31.2 off Dunn's Pond Road. The location being an expansion of the nonconformity of the existing building located on the property. The lot is a reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business, Residence B Zoning.

Appeal 2008-033

**Cardarelli
Bulk Variance Minimum Front Yard**

John F. Cardarelli has applied for a Variance to Section 240-25.E, Bulk Regulations, Minimum Front Yard setback. The variance is sought in the alternative to the above petition for a special permit to allow for the 7,103 sq.ft. building to be located on the proposed 'Lot B' 31.2 feet off Dunn's Pond Road when the zoning requires a minimum front yard setback of 60 feet. The lot is a reconfiguration of property

addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business, Residence B Zoning.

8:00 PM

Appeal 2008-052 - New

**Cardarelli
Bulk Variance Minimum Front Yard**

John F. Cardarelli has applied for a Variance to Section 240-25.E, Bulk Regulations, Minimum Front Yard setback. The variance is sought to allow for the development of a 7,103 sq.ft. building to be located within the 60-foot front yard setback required off West Main Street and off Dunn's Pond Road. The lot is a reconfiguration of property addressed as 644 West Main Street, 626 West Main Street and 29 Dunn's Pond Road, Hyannis MA and is shown on Assessor's Map 249 as parcels 133, 095 and 132. The property is zoned Highway Business, Residence B Zoning.

Open:

Comprehensive Permit 2005-082

**Cotuit Equitable Housing LLC
Minor Modification Request**

See applicant's information attached. Staff comments to follow.

On May 2, 2006, the Board issued Comprehensive Permit 2005-082 to Cotuit Equitable Housing, LLC for the development of 124 single-family dwellings on 50.44 acres. The subject property was formerly addressed as 9999 Falmouth Road (Route 28), Cotuit, MA and shown on Assessor's Map 002 as parcel 002. That parcel has recently been subdivided as per plan approved by the Board and recorded. In June of 2007, the Board granted a Minor Modification of the Permit allowing 4 model units to be constructed and extending the time frame for the design and permitting of a signalized Route 28 and Noisy Hole Road intersection. The applicant has initiated the development and marketing of the units.

The applicant has requested a second minor modification of the permit to allow:

- phasing schedule changes to allow 18 market rate units to be developed and occupancy permits issued and then before the 19 market rate building permit issues they will develop 6 affordable units (to occupancy).
 - changes in some house designs and in location of the affordable units.
 - extension of a time frame consisting of an additional 4 years for completion of signalization at Route 28 and Noisy Hole Road
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Open Chairman's Discussion
