

**MINUTES
TOWN OF BARNSTABLE
PLANNING BOARD
March 8, 2010**

A regularly scheduled and duly posted meeting of the Barnstable Planning Board was held on March 8, 2010 at 7:00 p.m. at the New Town Hall, second floor Hearing Room, 367 Main Street, Hyannis, MA.

The meeting was called to order at 7:00 p.m. with the following Members/Staff present:

PLANNING BOARD MEMBERS

Felicia Penn ,Chairman
Raymond Lang, Vice Chairman
Matthew Teague, Clerk
Patrick Princi
David Munsell
Marlene Weir

STAFF

JoAnne Buntich, Director, Growth Management Dept.
Elizabeth Jenkins, Principal Planner, GMD
Ellen Swiniarski, Regulatory Review Coord, GMD
Arden Cadrin, Special Projects Coord, GMD

OTHER BUSINESS

HOUSING PRODUCTION PLAN - Karen Sunnaborg, Consultant; Arden Cadrin, Special Projects Coordinator, Housing, Growth Management Department

Karen Sunnaborg guided the Planning Board through the highlights of this large, comprehensive document and provided background as to the need for the plan. The plan being presented is an update of a previously approved plan. State regulations enable towns to have greater control of housing production if certified.

A Power Point Presentation was provided by Ms. Sunnaborg and included the following:

- Background - needs assessment
- Housing Goals - 10% affordable, distributed through all 7 villages, protect environment, preserve existing affordable housing stock, promote smart growth principles
- Demographic Trends - population increasing, appear to be moving toward the 65+ year old population, decrease of children, decrease in non-family households
- Priority Housing Needs - rental costs are higher than wages, ownership, disabilities
- Strategies - Coordinating and Monitoring Functions; Education/Homelessness; Change zoning to allow housing incentives ie: owner occupied affordable unit Promote reuse and mixed uses; use public land for affordable housing.

Marlene Weir stated that funding has been provided at the Federal level for demonstration projects to allow elders to age in place. She would like to see systems and supports for elders to stay in place as they age in this Town and bridge single family home ownership with shared services so that elderly may stay in place. Would like to see language for this in the plan.

Ray Lang stated concern that rooms in houses are being converted to affordable apartments which sometimes causes parking issues in some neighborhoods. He also stated that he is not against affordable housing, however each case should be viewed separately and the concerns of those in the affected neighborhoods should receive more consideration at Public Hearings. It was relayed that the Town's rental process is not part of affordable housing requirements.

David Munsell stated that this is a great time to build/redevelop properties. Contractors are available and priced reasonably to convert foreclosed properties to affordable multifamily dwellings.

Matt Teague stated that the plan is comprehensive. 40B boom was the result of several factors: relatively higher priced homes, very low interest rates. This combination allowed developers to make a profit on 40Bs. Presently, zoning restrictions for density are exclusive unless a 40B. Need to come up with an economic, demographic formula that will put people, developers and housing together. Jobs are not on Cape Cod that is why the 20 - 30 year olds are moving away. Need to create jobs, need smart and creative zoning that also takes the environment into account.

Felicia Penn stated that the adaptive reuse of property was particularly nice and encouraged. Felicia requested author to take another look at page 5, first bullet regarding the statement that in the WP District, public benefit is more important than the environment, as she does not agree.

Arden Cadrin provided the timetable for approval and stated that a sooner approval by the Planning Board would be better as the prior plan has lapsed. After Planning Board approval, the Town Manager approves and sends it to the State for their approval.

JoAnne Buntich reminded the Board that the creation of a plan does not create regulation and they should vote for approval of this plan as soon as they are comfortable. Ray Lang stated that he was not comfortable voting while the accessory affordable apartment can be occupied by the owner and would like to discuss what happens in the larger portion of the house in this instance? JoAnne explained that as a homeowner with an accessory affordable apartment ages, it may be more advantageous for them to live in the apartment and be able to rent out the home as long as the property is their primary residence. Arden Cadrin stated that the plan does not change the ordinance to allow for this. Ray Lang was satisfied that the ordinance would not be changed by this plan.

Felicia Penn stated that the plan is a compilation of suggestions, strategies, and changes that would need to come before the Planning Board in a Public Hearing one by one if they are to become an amendment to the ordinance.

JoAnne Buntich stated that the strategies in the plan are not very different from the plan which recently expired.

Motion was duly made by Patrick Princi and seconded by Matt Teague to adopt the Housing Production Plan.

Discussion: Marlene Weir asked staff if the Planning Board should consider this plan as part of an appendix to the Affordable Housing Section of the Comprehensive Plan. JoAnne stated that the plan will be referenced in the Comprehensive Plan.

So voted unanimously.

SUBDIVISIONS

HALLET WOODS - Definitive Sudivision #792- Modification of Covenant and Development Agreement, Release of Lots

Attorney Kenney represented the applicant, William Charles Hallett who was also present, and addressed the Planning Board. He provided background regarding the requirements of the subdivision and the basis for the request for modification/release. He stated that a four-lot subdivision was approved however the road was not built. The time to complete the road had been extended in 2007 and is set to expire in March 25, 2010. The expense to built the road is \$200,000.00. Mr. Hallett has sought contracts with NSTAR and others. The release of Lot 1, which has frontage on Fuller Road, would allow the applicant to convey the lot and build Tawney Avenue with those funds. The release of Lot 3 is to convey to William Charles Hallett only, in order to protect the lot created by this subdivision from a zoning change. Lot 3 would remain subject to all of the terms of the covenant until released by the Planning Board. Attorney Kenney stated that the applicant is also asking for an extension of time to March of 2010 to construct the road.

Motion was duly made by Matt Teague and seconded by David Munsell that the Planning Board approve the release of Lot 1 as shown on the plan recorded in Plan Book 572, Page 87 Hallet Woods, Subdivision #792 from the Covenant dated March 18, 2002 and recorded in the Barnstable Registry of Deeds in Book 15017, Page 282. There shall be no separate curb cut onto Fuller Road for access to Lot 1. Access to Lot 1 shall be from the existing driveway servicing Lot 2 or Tawney Avenue.

The motion carried 5/1 with Raymond Lang, David Munsell, Patrick Princi, Felicia Penn, Matt Teague voting in the affirmative and Marlene Weir voting in the negative.

Motion was duly made by Matt Teague and seconded by David Munsell that the Planning Board hereby amend paragraph 2 of the covenant dated March 18, 2002 and recorded in the Barnstable Registry of Deeds in Book 15017, Page 282 to allow William Clark Hallett to convey Lot 3 as shown on the plan recorded in Plan Book 572, Page 87 Hallet Woods, Subdivision #792 to William Charles Hallett, subject to all other terms of the Covenant as hereby amended. The deed shall be in the same format as the Deed attached hereto as Exhibit A.

The motion carried 5/1 with Raymond Lang, David Munsell, Patrick Princi, Felicia Penn, Matt Teague voting in the affirmative and Marlene Weir voting in the negative.

Motion was duly made by Matt Teague and seconded by David Munsell that the Planning Board amend paragraph 4 of the Development Agreement dated March 18, 2002 and recorded in the Barnstable Registry of Deeds in Book 15017, Page 275 by striking the following language: “....within three (3) years from the date of endorsement of the Subdivision Plan and Profiles, ...” and replacing said language with the following: “...on or before March 23, 2012...” so that paragraph 4 shall now read as follows: “The Applicant agrees to construct the ways and install the utilities on or before March 23, 2012 and furthermore agrees that construction shall be completed one year from the date of commencement of construction, or such further time as may otherwise be mutually agreed upon by both parties in writing. Failure to complete construction and installation within the time specified may result in rescission of approval of the plan.”

The motion carried 5/1 with Raymond Lang, David Munsell, Patrick Princi, Felicia Penn, Matt Teague voting in the affirmative and Marlene Weir voting in the negative.

MAKI FAMILY TRUST - Preliminary Subdivision Plan - Subdivision #819

Dan Ojala of Down Cape Engineering was present and addressed the Board. Two Maki family members were also present.

- 3 Lot Subdivision
- Notes will be added regarding the 2 small parcels that they are not buildable
- Two small parcels are for conveyance only.
- Property is in RPOD (2 acres) and not a reduced frontage district so not allowed to panhandle
- 3 Lots - Minor B road = 40 ft. right of way
- Turning T as proposed is allowed in the regulations for Minor B road instead of cul-de-sac to allow for less area of impervious surface, and less disruption of trees and grading.
- Proposed road is directly opposite to Sunderland Way which serves 5 - 6 houses. Drivers would be directly opposite should be able to acknowledge each other on.
- Located at top of hill - good site distance = 475 ft.+ in both directions.
- Three waivers are requested to maintain rural character and are important to be addressed at preliminary stage:
 - 1) §801-26 B - Requested in order to blend with existing terrain. Road will not exceed 2% gradient slope within the first 50 ft from edge of pavement of the intersection, instead of required 2% slope or less within 40 ft from intersection as measured from edge of right of way line. This effectively creates a level spot at the top of the road without having to bank the sides.
 - 2&3) §801-30 & 45- Requested to retain rural character using gravel rather than required pavement and CC berms. Gravel road would fit with character of the area and drain better than pavement.
- A Minor B road would require 16 ft. width of pavement with a foot provided to either side = 18th overall width. Proposed road is 18 inch berm with swale, binder in the gravel and to have swale come down either side for subsurface drainage system proposed near the bottom. The rest of cross section is similar to pavement.

Felicia Penn inquired if the road directly across, Sunderland Way, was paved. Mr. Ojala stated that the road is paved, narrow and approximately 1,000 ft in length. Patrick Princi inquired if information regarding topography of the area at the top of the road was available. Mr. Ojala stated that the Town has online and in the file, 2 ft contours of the entire area. The topography at the top of the road does rise only slightly. Mr. Ojala stated that a drainage analysis has been done which will be reviewed by Steve Seymour.

Felicia Penn suggested continuing the project to the March 22 meeting to address the comments in Steve Seymour's staff report, specifically, topography, paving and drainage. Steve Seymour's staff report of February 26, 2010 was discussed by Mr. Ojala in light of proposed gravel road and storm water infiltration system. In regard to §801-27.A(1) of the Town's Subdivision regulations, Mr. Ojala stated that existing conditions are such that the storm water presently runs into Oak Street and the proposed basins will be capturing it all instead. Drainage calculations will be provided for this. Bio-infiltration is difficult, however if the Board feels it requires a waiver request, it will be part of the definitive filing. In order to provide for a 100-year storm, a large puddle would need to excavated to hold 100-year

storm water. Being at the top of a hill, this would be a hardship. If a waiver request is required, one will be made part of the definitive filing. The S Form is not a problem if 2% waiver is granted. Mr. Ojala requested the Board to look at the stone drives on either side that are at the same, or in excess, of the slope of the proposed road. What is proposed is 12" of reground T base which provides a very solid base and will hold together well. On top of that, a full 2" of ¾" washed stone which will allow good infiltration. With three lots on six acres, this road will receive light use and the rural character will be maintained with gravel.

Patrick Princi inquired regarding the existing driveway, proposed driveways and road usage. Mr. Ojala stated that the family would be willing to move the existing driveway onto the Minor B road if requested. Mr. Lang inquired if there were any existing easements in the area and Mr. Ojala stated that he did not believe there were.

Ms. Weir expressed concern regarding the differences in opinion for gravel vs. asphalt. She stated that reinforcement of the gravel road may need to be considered to meet standards. Mr. Ojala stated that gravel seems to work well in this area, however pavement would be the alternative. The proposed base is very similar to what would be allowed under a paved surface. It is a recycled product that is asphalt ground up into a specific grain size to provide a solid foundation. Marlene Weir requested product information regarding durability and Mr. Ojala said he would provide specs. David Munsell inquired if Mr. Ojala has a gravel road completed that the Board could see as an example and he said that he would provide this as well.

Elizabeth Jenkins stated that staff would like to see parcels A and B labeled on the plan that they are not buildable lots and, if A or B are to be utilized for drainage, that this also be labeled. Topography was not provided for the preliminary plan, however GIS does have this information. Ms. Jenkins also requested information regarding proposed building locations on Lots 1, 2 & 3.

The Board decided to continue the meeting to March 22, 2010 in order for Mr. Ojala and Steve Seymour to discuss the plan.

SALT MEADOW HILLS - Subdivision # 65

Mr. Greer addressed the Board regarding the formal approval of the road construction plan after having received approval of same from the Conservation Commission. Mr. Greer stated that he intends to do the work himself and will not be seeking a release from covenant until complete. Security does not need to be posted to do the work. Preliminary approval of this plan by the Planning Board was made on December 14, 2009 pending Conservation Commission approval. Conservation Commission approved that same plan without change.

Mr. Greer was advised to contact Steve Seymour, GMD Engineer, to be advised of the steps of inspection required as the road is constructed. Elizabeth Jenkins suggested that a Form S may be a good addition. Mr. Greer stated that there are other homes on this road and that the Town itself owns property at the end of the road without a requirement of filing a Form S, and he would not want to have to take that responsibility. It was decided that a Form S cannot at this point be retroactively imposed. Mr. Greer stated that the Town is presently plowing the road, although private.

Motion was duly made by Matt Teague and seconded by David Munsell to approve the revised construction plan entitled "Proposed Roadway Improvements Salt Meadow Lane", prepared for William Greer, drawn by David C. Thulin, PE, PLS, plan dated

October 15, 2009, revised 12/7/09 and that the Town shall have no obligation to maintain said road. So voted unanimously.

Mr. Greer stated that the plans reflect a final revision date of February 19, 2010 for the removal of the lot line and also includes the Conservation Commission notes.

Matt Teague accepted and David Munsell seconded the amendment to the above motion that the final plan revision date is February 19, 2010. So voted unanimously.

OTHER BUSINESS

Hyannis Main Street signage discussion will be placed on a future agenda.

Green Communities Zoning - Energy Coordinator, Richard Elrick

Mr. Elrick distributed a packet of information to the Planning Board and began to provide an update of what the Town is doing with respect to becoming a Green Community.

Mr. Elrick explained what is in the packet he handed out:

- Presentation
- Guidelines from Department of Energy Resources of what is required to qualify as a Green Community
- Guidance document by DOER with respect to As-of-Right Siting of renewable energy research and development facilities.
- Guidance document for Expedited Permitting
- Green Communities Designation Application - this is filled out once the 5 requirements of the Green Communities Act are met. Application contains Town's documentation that criteria has been met.
- Town Planner's draft of language for meeting the as-of-right zoning for renewable energy research and development.
- Article XV and XVI from Town of Mashpee proposed to meet the as-of-right zoning for R&D for renewable energy as well as the solar component.
- Model as-of-right zoning by-law for large scale solar installations.

Mr. Elrick provided background as to what the Town has accomplished so far:

- 2002 and 2003 Barnstable Town Council voted for energy audit to be performed
- 2003 Town made commitment to reduce its greenhouse gas emissions
- 2007 Town passed WECF (Wind Energy Conversion Facility) ordinance
- 2009 Town Manager announced that the Town would seek Green Communities Designation
- 2009 Town Council has voted to create a Renewable Energy Commission

Mr. Elrick explains why it is good for Barnstable to become a Green Community:

- Reduces greenhouse gas emissions
- Economic Development - "Green Businesses"
- Reduction of the Town's energy costs - \$3.9 million for energy last year
- Ability to take advantage of grants that are available only to Green Community designated Towns

The five essential requirements that must be met are:

- Adopt the policy to purchase only fuel efficient vehicles where practical
- Establish an energy baseline, and then commit to a 20% reduction over the next 5 years

- In order to address energy life cycle standards, all residential construction exceeding 3,000 s.f., and all new commercial real estate construction would be subject to an appendix to the Massachusetts Building Code called the “stretch code”. This Building Code Appendix would need to be adopted by the Town.
- Provide for as-of-right siting of alternative or renewable energy generating facilities, R&D facilities for alternative or renewable energy, or manufacturing facilities for alternative or renewable energy.
- Adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and cannot exceed 1 year from the initial application to its approval.

As of Right Zoning:

- No Special Permit or other discretionary review.
- For grants, there will be a point system for Towns - a Town that accomplishes all 3 types of as-of-right siting = higher points.
- For as-of-right zoning for facilities, the area must be able to accommodate a 50,000 s.f. building in a location where it is feasible and practical.
- For as-of-right generating the choices are: onshore turbine 600 Kw or greater output; solar voltaic for minimum of 250 Kw output (requires at least 1 acre of land). It appears that biomass, ocean waves, etc. are not a feasible consideration at this time.

The Town is attempting to accomplish all 5 criteria for Green Community designation by May 14, 2010 because this is the filing deadline for first round of grants. Few (only 10-15 towns) communities will have achieved this designation for this first round.

Patrick Princi inquired if there are considerations given to Towns that are at a disadvantage and do not have an area for a 50,000 s.f. building available. Mr. Elrick stated that the Town is challenged for wind generation, however for manufacturing, R&D in Ltd. Industrial and Industrial Districts may provide an opportunity. If everything possible has been done to meet the specifics, the fact that it is not attainable is taken into account.

Mr. Lang inquired if the as-of-right site zoning of WECFs would replace the WECF Ordinance. Mr. Elrick stated that it does not replace the wind ordinance that is in place.

JoAnne Buntich stated that the Research and Development as-of-right siting will be proposed in the existing Ltd. Industrial and Industrial zoning districts for the May 14 deadline. Being sensitive to the timeframe, DOER is reviewing R&D preliminarily for these existing zoning districts to see if they can meet the criteria for as of right siting for R&D. The other options will continue to be worked on, however, given the constraints of the airports, developed land, the necessary height of the 600 kw WECFs, private land ownership criteria, the R&D option is the least complicated and least time consuming for this first round.

Marlene Weir inquired about the stretch code and the Building Commissioner’s opinion. Mr. Elrick stated that the Building Commissioner will do what is determined to be best for the Town. The Town is intending to partner with Mashpee, Sandwich and Yarmouth in order to collaborate so that more than just one community adopts the stretch code at one time. Mr. Elrick stated that from the information he has gathered, the stretch code may cost more up front, but the energy savings end up greater than the cost.

Felicia Penn inquired regarding timing required to get zoning amendments onto the Town Council agenda and passed. JoAnne Buntich stated that because of the timing, a joint hearing, Planning Board/Town Council would be necessary. An ordinance could be easily drafted from existing information and make it onto the Town Council agenda at the end of April. Felicia Penn stated that the Board should read the information provided tonight and be prepared for the March 22, 2010 meeting with questions. A proposed ordinance change will be provided to the Planning Board. As of right siting exists in the Ind. Ltd. for R & D, this use is being added to the Industrial Zone along with an added definition. Mr. Elrick is waiting for feedback from DOER regarding the adequacy of what the Town is proposing to qualify.

Reports

JoAnne Buntich stated that the Local Comprehensive Plan will be on the Town Council's March 25, 2010* agenda. The proposal to add the one lot to the HB District was unanimously voted. The formula business for Barnstable Village and Hyannis OM District were deferred to March 25, 2010* Town Council agenda also. The Craigville Beach implementing regulations for the DCPC was deferred to the April 1, 2010 Town Council meeting.

**Town Council Agenda for March 18, 2010*

JoAnne Buntich reported that the Coastal Resource Management Committee presented its plan to the Town Council a few weeks ago. A moratorium is in place for Dock and Pier Overlay District which is set to expire on May 3, 2010. Town Council office requests that an ordinance be drafted that implements their recommendations to continue the Dock and Pier Overlay District. This is also a time sensitive issue. The consultant that drafted the plan is working on the ordinance. The new ordinance would be based on the temporary ordinance with additional recommended language from the Coastal Resource Management Committee. Patrick Princi, who was a member of the Coastal Resource Management Committee updated the Planning Board regarding what issues were studied in order to make recommendations: all harbor management issues, shellfish issues, focused on the Three Bays area. Committee came up with zoning which was not a straight ban on docks and piers, instead would allow floatable seasonal piers and non-motorized vessels at those piers. The Coastal Resource Management Committee Plan is available on the Town website under Growth Management, Comprehensive Planning, Chapter 9-3. Applications for seasonal piers and non-motorized vessels would be submitted for these areas subject to review. Ms. Weir expressed concern regarding a joint hearing and would like to consider this ordinance this evening. Patrick Princi stated that a joint public hearing is not likely to be controversial because there has been much public input already to date. JoAnne asked if the Board would allow a joint hearing to be advertised. Ms. Weir stated that she preferred the Planning Board to hold its own hearing prior to the Town Council hearing. After reviewing the advertising timeframes, it was decided that the only option available was to advertise for a joint public hearing Planning Board/Town Council for April 15, 2010.

Motion was duly made and seconded to adjourn. So voted unanimously. Adjourned.

Respectfully submitted,

Ellen Swiniarski
Regulatory Review Coordinator
Growth Management Department
As Recording Secretary