



BARNSTABLE
TOWN CLERK

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**Town of Barnstable
Planning Board
Minutes
February 13, 2012**

Matthew Teague – Chairman	Present
Paul Curley – Vice Chairman	Present
Patrick Princi - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
Cheryl Bartlett	Not Present
David Munsell	Present

Also present were Art Traczyk, Regulatory Review Planner, a quorum being met, Chairman Matthew Teague opened the meeting at 7:00 PM.

Approval Not Required Plans:

LaPine & LaPine - A plan entitled "Plan of Land in Barnstable Fire District 91 & 93 Deacon Court Barnstable, Barnstable County Massachusetts prepared for Paul A. & Wendy S. LaPine", dated December 13, 2011, as prepared by J.K. Holmgren Engineering, Inc., has been submitted for endorsement as an Approval Not Required Plan. The plan proposes to reconfigure the lot line between 91 and 93 Deacon Court in Barnstable.

Paul and Wendy LaPine in attendance. Mr. LaPine explained that the triangular piece of land going from the South to the North will be the piece being moved from 91 to 93 Deacon Ct.

Matt Teague entertained a motion, Raymond Lang moved to endorse this ANR plan as submitted, seconded by Paul Curley, so voted unanimously.

Johnson & Jenkins - A plan entitled "Boundary Agreement Plan prepared for Nancy L. Johnson & James A. Jenkins, Tr. West Barnstable, Mass", dated December 10, 2011, as prepared by John P. Doyle, PLS has been submitted for endorsement as an Approval Not Required Plan. The purpose of this plan is to establish and acknowledge the boundary lines of agreement between property owned by Nancy L. Johnson, addressed 245 Parker Rd., West Barnstable and the adjoining lands of James A. Jenkins, Trust, addressed 301 Parker Road, West Barnstable.

Attorney Michael Ford (representing Nancy Johnson) and Attorney Sundelin (representing James Jenkins) in attendance.

Attorney Ford explains this is being presented to re establish the common boundary line between the Johnson piece and the Jenkins piece. Land Court action agreed upon for this joint plan.

David Munsell asks how close is this to the Jenkins sub division property?

Attorney Sundelin states it is several hundred feet away and it is not abutting property.

Felicia Penn asks for clarification regarding the statement "no designated way at the location" mentioned in the first paragraph of the Staff Report.

Attorney Ford responds that he isn't sure what this is pertaining to?

Art Traczyk responds stating Assessors map shows part of Parker Rd., coming into the Jenkins lot as a right of way. There is not a designated way from Parker Rd. coming into Jenkins lot on the edge of the Johnson lot, but there is one on the Assessors map.

Attorney Ford stated that nobody is proposing that this be utilized as frontage. Review of the next ANR plan shows proposal of dividing the Johnson property which would be joined to the Jenkins property.

Raymond Lang comments, that this is just a perimeter plan.

Attorney Ford states that is a good description.

Paul Curley moved to endorse the Boundary Agreement Plan for Nancy L. Johnson & James A. Jenkins, Tr. West Barnstable, Mass, Raymond Lang second, so voted unanimously.

Johnson & Jenkins - A plan entitled "Plan of Land prepared for Nancy L. Johnson & James A. Jenkins, Tr. West Barnstable, Mass", dated December 10, 2011, as prepared by John P. Doyle, PLS has been submitted for endorsement as an Approval Not Required Plan. This ANR plan proposes dividing the 245 Parker Road Lot (as defined by the prior ANR Plan) into two lots, Lot Nos. 1 & 2. The resulting Lot No. 2 is an undersized, non-building lot that is to be annexed to the adjoining lands of James A. Jenkins, Trust, and addressed 301 Parker Road, West Barnstable.

Attorney Ford explains that this is a division of the Johnson property, seeking to divide into lots 1 and 2, lot 2 to be joined with the remaining Jenkins land.

Raymond Lang asked if the existing dirt road would be an entrance or another entrance to be done here? Is it 20 feet?

Attorney Sundelin stated that this is for agricultural vehicles to get to the bog. It is an easement that has been used for many years for access to the bog for cultivation purposes.

Paul Curley moved to endorse the Plan of Land for Nancy L. Johnson & James A. Jenkins, Tr. West Barnstable, Mass, seconded by Patrick Princi, so voted unanimously.

7:00 pm

**Public Hearing - Continuation Special Permit Application No. 2012-02
Parking Facilities 659 Main Street Hyannis**

Continuation of Public Hearing to consider Special Permit Application No. 2012-02. The petitioner, the 659 Main Street Realty Trust as future purchaser of the property, is seeking a special permit pursuant to Section 240-24.1.3.B (1), Parking Facilities. The petition seeks to demolish the existing structure located at 659 Main Street, Hyannis, MA and develop the lot for a 12 vehicle surface parking lot. The petition includes a request for relief from Section 240-24.1.3.C (8)(b) to allow a 22-foot wide curb-cut for the parking lot's driveway when zoning would limit the curb-cut to a maximum of 17 feet.

The property is addressed 659 Main Street, Hyannis, MA and is shown on Assessor's Map 308 as parcel 136. The property is zoned HVB - Hyannis Village Business Zoning District.

This hearing was opened January 23, 2012, and continued to February 13, 2012. The hearing was continued to:

- Secure Town Attorney's Office input and review of; (1) Applicants proposal to operate the parking lot as a separate business with restricted parking reserved for neighboring business, and (2) Review of Driveway/Curb-cut relief as a special permit to alter and change preexisting structural nonconformity.
- Allow Applicant to consider installation and maintenance of a bicycle rack to satisfy Special Permit Criteria for contributing to alternative transportation (240-24.1.2 E(f)).
- Allow time to revise plans to include; crosswalk between Main and South Streets, improved landscape to insure screening of vehicles, lighting, bicycle rack, trash receptacle(s) and signage.
- Provide for the submission of a detail list of all waivers/reductions requested and implied in the proposal.
- And, additional details on how the parking lot is to be operated and managed.

Attorney David Lawler in attendance. He explains that the proposed lot would be open to the public with a standard parking fee to be implemented with no reserved parking. Several photographs shown of the surrounding area in Hyannis taken by Attorney Lawler, all within the HVB district. States there are 30 or so vacancies and unused businesses in the vicinity.

The revised plan for the parking lot is shown. Attorney Lawler also points out the changes made that the board and staff had requested. Shrubbery, bicycle rack, etc. The use would be for a fee for the public, to park valet and vehicles in the spot. Would not keep a reserved space open for the public.

Felicia Penn asks how is this going to be done? Meters, ticket machine, on site?

Attorney Lawler says somebody on site, during peak parking periods, signage, most likely, no meters.

Felicia Penn asks any enforcement? Year round fees? Contracts for valet situation?

Attorney Lawler states probably parking year round. May have offer for coupon or voucher with a particular business. If patron goes to a contracted business, would not have to pay to park.

Felicia Penn asks how would the gatekeeper know? Do you know how the business is going to work?

Attorney Lawler answers that this is something that would have to be figured out. He assumes that somebody would be there to validate the parking.

Felicia Penn asks how is the curb cut issue being addressed?

Attorney Lawler states that it will be reduced to 22 ft. and signage was added.

Felicia Penn asks if there will still be visibility from Main St.? Will you be able to see the cars that will be parked here?

Attorney Lawler states they are providing appropriate landscaping that will look aesthetically pleasing to some point, it is a parking lot, it cannot be completely shielded.

Felicia Penn states that the plan looks like it will be very visible, cars will be able to be seen.

Attorney Lawler responds, yes, the tops of cars. It will be much better than it is at present.

Matt Teague interjects that there will be several plantings, but no under story here.

David Munsell stated that it seems like a pretty straightforward plan and improvement for the area. Does not think the PB should be against it. He would like to promote more improvements for the town and encouragement for changes.

Ray Lang addresses that the building should come down regardless of what is to be put in it's place. He does not think the policing of the parking lot should have the planning board involved.

Attorney Lawler states it is a private owned parking lot that is open to the public for a fee. States the Town Attorney should quote that this is what it is specifically.

Ray Lang brings up the variances that were to be addressed. Asks for explanation regarding the curb cut.

Attorney Lawler explains that it will be cut from 68 feet to 22 feet, essentially being reduced by two thirds.

Ray Lang confirms that the frontage would be 32 percent. He confirms the changes for the 19 foot parking spaces. Also, how long would the permit be given for and any grandfather rights.

Attorney Lawler states that the recommendation was for 4 years. If title/property transferred then they would have to approach board again. He points out that the owners of the Brazillian Grill are present and that the restaurant and the parking lot are two separate entities.

Raymond Lang asks how many owners will be involved in the transaction, 3?

Attorney Lawler states, no, one owner.

Paul Curley directs this question to the Town Attorney, Ruth Weil, he asks if this can be done with a special permit? Issue a special permit for a private/public parking lot on this piece of property in this zoning district?

Ruth Weil quotes the definition of a parking facility "When identified as a permitted, principal use within the zoning district, refers to either structured parking such as multi level parking garage or deck or a surface parking lot which is non accessory use to another permitted use in this district". The model suggested by David Lawler would fit into that definition.

Paul Curley stated that he just wanted to make sure that it would not get overturned at a later date.

Ray Lang asks if the curb cut onto Main Street would require access to a 22 ft. space parking lot, according to zoning laws. Does South Street have a different aspect, zoning requirements?

Attorney Ruth Weil states that she has not analyzed this/addressed this. The board's expertise in interpreting the zoning ordinances could determine this.

Ray Lang describes the differences between Main Street business and South Street area. If special permit granted for a parking lot does that mean that the parking lot will always be a continued use for the area?

Ruth Weil states the parking provision may need to be revisited. Due to changes in the area. She cannot really answer a hypothetical question.

Matt Teague asks if a special permit would be dissolved upon change of use? He asks about the term accessory use. He thinks that when a contract is in effect for parking that that would become an accessory use for that business. His fear is that there would be no control over how it would be used.

Attorney Ruth Weil states that she has not issued an opinion and has not analyzed this yet.

Attorney Lawler explains that this is an enforcement issue and not something that the board would have to address. Any violations of the special permit would be addressed as set forth.

Matt Teague states that his concern is that they need to implement a special permit that is enforceable. And that the signage should state authorized parking only, all violators would be towed. Should be visible and noticeable. He wants to clarify that it is to be a public lot.

Attorney Lawler agrees and states that this could be worked out with staff.

Felicia Penn agrees that a posting should be done with fees, and hourly rates etc.

Paul Curley asks who owns the property where the jewelry store is? Does it have anything to do with this piece of property?

Attorney Lawler states that he doesn't know and there is no residential unit here, it's an office.

Patrick Princi states that he doesn't think that there is any way the parking can be enforced. He is only looking at the fact that a bldg. is being removed and taking away from Main St., he thinks this takes away from the character.

Attorney Lawler responds (reiterates) his point that the property is not of value and the abutters would like to proceed with the project. The by laws state that this use is appropriate and allowed by special permit. Town Council states that there could be surface parking here.

Felicia Penn stated that the Town Council's recommendation was contingent on the Planning Board's decision. She's concerned with the enforcement and that as it's presented at this point it is unenforceable. A special permit could not be issued in good conscious. Advises Attorney Lawler to come back with an enforceable, more detailed project. This is a bad model.

Attorney Lawler responds that the regulation is that it is open to the public for a fee.

Public Comment

Attorney Peter O'Keefe speaks. The bldg. has been owned since 1924. The former Mr. Stone made it known that there was always a lack of parking here. This property has been on the market for 18 months. He realizes this is not what the board is addressing but he wanted to make it known.

Elizabeth Wurfbain speaks. She understands the board's vision for Main Street. The BID's point of view is that it would support this special permit, and the business for the Brazillian Grill. The little business's here do not have any parking and this would free up parking for these businesses. She doesn't think it would be taking away from Main St. nor it's quality.

Ray Lang asks if it may be viable that some parking could be leased where there is vacant property, i.e., the old Brew House property? Could the BID do this? He would like to know if a committee could be formed for this issue.

Elizabeth Wurfbain thinks that it is a great idea and it could be a possibility. She is trying to work with the Town Manager re this as well.

Ray Lang said that he would volunteer for any committee re this issue.

Matt Teague states that the enforceability issues and an operation plan would be helpful, and signage, light fixtures etc. His only concern is if it's open to the public or not. How's it going to work in the off season? Hours of operation? Thinks it's a smart idea, good use.

Felicia Penn would like to see a model, address why this will not become an accessory use, and will be the only paid for parking in the area. Enforceability issues.

Felicia Penn moves to continue this to the next meeting, Feb. 27th.

Attorney Lawler will be on vacation and does not know if it would be worth it for him to come back for a continuance of this public hearing. He will have to consult with his client.

Paul Curley will be away until the first meeting in April.

Matt Teague entertains a motion to continue to April 9th, 2012, seconded and voted unanimously.

Approval of Minutes: Approval of January 9th and January 23rd, 2012, Board Meeting Minutes.

Ray Lang moved to accept minutes as presented, seconded by Paul Curley, so voted unanimously.

Executive Minutes: Possible report of the Chair on review of past Executive Session Minutes.

Matt Teague stated there has been no change.

Discussions:

Addition of the Hyannis Inn & Conference property on Scudder Ave in Hyannis to the Cape Cod Commission's Regional Land Use Vision Map as an Economic Center. This is a continuation of the discussion initiated at the Meeting of January 9, 2012.

Matt Teague asks if any updates?

Art Traczyk states that there is not.

Impulse, LLC – 333 and 349 Iyannough Road (Route 28) Hyannis – review of development for conformity to approved plans update (as requested at meeting of November 14, 2011) Copy of Special Permit No. 2010-01, development plan, and request memorandum previously distributed.

Matt Teague stated he did not think the bldg. dock was to be enclosed, now it is not enclosed.

Ray Lang asked if anyone remembered if it was going to be necessary to tear down the existing bldg? Questioned if the foundation of the bldg. was suspect, but it was built on.

Matt Teague interjects that his understanding was that it wasn't the foundation that was suspect but the wood framed structure not being/cost to make fire resistant.

Felicia Penn thought that the foot print was originally to not have any of the original bldg's left, all to be taken down.

Matt Teague states that it is on record as required to submit an as built plan and that if the project is in violation of the originally submitted plan they will have to come before the board again.

Bond Court Hyannis – Request for review and possible enforcement action as related to parking of vehicles in, and obstruction of, Bond Court, Hyannis. Parking and traffic issues.

Matt Teague quotes the update received which states that the Regulatory Dept. has no jurisdiction over private property/roads.

Felicia Penn refers to the last page referring to notifying the Town Manager in obtaining enforcement/parking permits through the licensing authority.

Matt Teague states he thinks this would be the proper channel in notifying the Town Manager of this situation.

Correspondence: The following correspondence and items were received at the Planning Board's Office.

Cape Cod Commission Notification of Circuit City Redevelopment, Project Minor Modification (Type 2) to the Limited DRI Decision. This modification allowed for additional uses of the property (624 & 640 Iyannough Road – Route 132) to include Specialty Retail, Health Club, General light Industrial, Business Park, General Office and Educational/Vocational Training Center.

Cape Cod Commission Notification of NSTAR Lower SEMA 345kV Transmission Line DRI Decision. This decision includes approval of an increase in voltage for transmission lines located in Barnstable and a new substation on NSTAR property at 661 Oak Street in West Barnstable.

Cape Cod Commission Notification of Cape Cod Commercial Linen Service Relocation DRI Decision. This decision provides for the change in use of an existing 27,000 sq.ft. building located at 880 Attucks Lane in Hyannis for relocation and consolidation of the Applicant's operations.

Copy of a January 31, 2012, FEMA letter to Town Council President, Frederick Chirigotis notifying the town of the projected summer of 2012 issuance of revised preliminary Flood Insurance Rate Maps (FIRM's) and Flood Insurance Study (FIS) report for Barnstable County.

Felicia Penn moved to adjourn, seconded by Paul Curley, so voted unanimously.

The meeting adjourned at 8:43 p.m.

Future Meetings:

Regularly Scheduled Planning Board Meetings: February 27, 2012 and March 12, 2012 @ 7:00 p.m.

Respectfully Submitted


Karen A. Herrand, Principal Assistant

Approved by vote of the Board on

Feb. 27, 2012

Further detail may be obtained by viewing the video via Channel 18 on demand at
<http://www.town.barnstable.ma.us>