



# Town of Barnstable Planning Board

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## Board Members

Stephen Helman – Chair   Raymond Lang – Vice Chair   David Munsell – Clerk   Paul R. Curley   Mark R. Ferro  
John Norman – Town Council Liaison

## Staff Support

Art Traczyk – Design/Regulatory Review Planner – [art.traczyk@town.barnstable.ma.us](mailto:art.traczyk@town.barnstable.ma.us)  
Karen Herrand – Principal Assistant – [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable Planning Board Minutes August 10, 2015

Stephen Helman – Chairman	Present
Raymond Lang – Vice Chairman	Present
David Munsell – Clerk	Present (left early)
Paul R. Curley	Present
Mark Ferro	Present

Also in attendance were JoAnne Miller Buntich, Director, and Karen Herrand, Principal Assistant, Growth Management Dept.

## Call to Order:

## Introductions:

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

## Approval Not Required Plans:

A Plan entitled "Plan of Land on Sandy Neck in Barnstable MA, prepared for George J. Hill, Jr. "Petitioner" et al., dated July 27, 2015, drawn and stamped by Down Cape Engineering, Inc. has been submitted to the Board for endorsement as an Approval Not Required (ANR) Plan. The plan proposes the division of a vacant 28 acre parcel of land into six parcels for conveyance purposes only.

Dan Ojala of DownCape Engineering, Inc. in attendance for the Applicant/Petitioners, Hill et al. He gives an explanation of the ANR. Reference to the rendering/plan Exhibit A is made. Parcel 6 is a 14 acre lot that the Town of Barnstable has under agreement to purchase. These are dune and shifting sands, no upland here, cannot put in septic, there is no road frontage, basically just parcels, no subdivision is represented here. This is how the parties wish to divide it up.

JoAnne Buntich interjects and explains to the Planning Board that the research reflects that this can be done; see Bloom vs. Planning Board of Brookline, 346 Mass. 278. These are parcels not lots, as defined in subdivision control law. They can be divided up, if lots they would need frontage, but these are parcels and that's why they are entitled to the ANR endorsement.

David Munsell refers to the tax record summary, Exhibit B. When did Mr. Hill come into the picture for this property, it's been listed as Sybil Basset?

Dan Ojala explains a piece of it was bought by Mr. Hill in the 1990's. Sybil Bassett represents a large portion of the most interest. Charles Sabbatt, Esq. has legal authority by the Court.

David Munsell states that this would cut off access. Suggests adding some wording about rights to access.

Dan Ojala refers to the Plan, Exhibit A, where the right of way has been established and as it exists today, this would be a civil matter. There are rights in those ways by Deed, this is the main path, 15 ft. right of way. Town of Barnstable will end up with the bulk of the property, there is a signed purchase and sale in the works.

Dan Ojala states that you cannot go to end of the point, since 1986/1987, the Sandy Neck Rangers stopped this. You would need a beach trail to go out with a vehicle. Need trail pass to get out for walking. This is a delicate place that is supervised and has been for many years.

Paul Curley asks if the parcels are being laid out for conveyance purposes? If a parcel owner what rights would you have? Camper for summer?

Dan Ojala answers there are some rules/regulations per the Town ordinances, maybe need a permit. Open dunes and beach grass here mainly.

Ray Lang asks if all the parcels will be owned by one owner? Confirms petitioner.

Dan Ojala answers there are a number of people that have interest as well as the Town, who will be purchasing six. Reference is made to court appointed authorization to Attorney Sabatt, see Exhibit C.

Ray Lang asks for confirmation of how the lot lines were defined? Can the lots (parcels) be sold? Frontage? Are any easements on record? Right of way? Is this all sand?

Dan Ojala answers his office drew the lines of division, they are prorated per the person's proportional interest/percentage in the property. The attorney's broke up the interest. A negotiated settlement between all involved. These parcels can be sold. There is a 15 ft. wide easement, reference is made to 1905 Bacon's reserved right of way land court easement plan, see Exhibit D, and aerial photo, see Exhibit E. This is all sand and coastal dune.

Ray Lang asks for clarification of the difference between lots and parcels with approval not required (ANR) plans?

JoAnne Buntich replies that they had found the case law regarding this; *Bloom vs. Planning Board of Brookline*, 346 Mass. 278, May 9, 1963, a parcel is not a lot for the purposes of subdivision control law. We don't see these very often, but it does happen. Case law in Massachusetts states that people are entitled to ANR endorsement where a plan shows parcels and lots or where only parcels.

**Motion made by Paul Curley to endorse/approve this ANR plan, seconded by Mark Ferro, so voted unanimously.**

### **Subdivisions:**

#### **Continued Public Hearing – Application to Modify Definitive Subdivision No. 350 – Dillon Lane**

JoAnne Buntich explains that she has discussed with Attorney Paul Revere III and refers to the request to withdraw. See Exhibit F.

**Motion made by Ray Lang to accept the Request to Withdraw the application for the modification of Subdivision 350, seconded by Mark Ferro, so voted unanimously to approve.**



**New Business:**

**Lot Release & Certificate of Completion Request – Subdivision No. 739 – Aittaniemi, Woodwind Way, West Barnstable**

Release of covenant on Lot 3 and Certificate of Completion for Subdivision No. 739, Woodwind Way

Greg Springer, General Contractor in attendance for the Applicant. He states that according to Town Engineer, Roger Parson's report the subdivision is complete.

JoAnne Buntich refers to the staff Report, the Town Engineer personally inspected this subdivision and his report is enclosed, see Exhibit G.

**Motion made by Paul Curley to accept the request to release the covenant, seconded by Mark Ferro, so voted unanimously.**

JoAnne Buntich interjects that they also need to do a certificate of completion and as built plans will need to be submitted in order to get a Form M Certificate of Completion.

Gregg Springer confirms that this is in the process now.

Chair Stephen Helman asks for confirmation that there is a change in the venue?

JoAnne Buntich clarifies that we will not be able to meet in the Hearing Room do to renovations. We have adjusted the advertising and will be meeting in the Selectmen's Conference Room. If we have to much public comment and cannot accommodate we may have to open/close the public hearing and reschedule the meeting at that time, it does not look like we will have an issue.

**Matters Not Reasonably Anticipated by the Chair:**

**Motion entertained by Chair Stephen Helman to adjourn moved by Paul Curley, seconded by Ray Lang, so voted unanimously.**

The Meeting adjourned at 7:35 p.m.

**Future Meetings:** Regularly Scheduled Meetings: August 24 and September 28, 2015 @ 7:00 PM.

Respectfully Submitted   
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on January 25 2016

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

**List of Exhibit Documents**

**Exhibit A** - Plan of Land on Sandy Neck in Barnstable MA, prepared for George J. Hill, Jr. "Petitioner" et al., dated July 27, 2015, by DownCape Engineering, Inc – File ANR Map/Par 339/002.

**Exhibit B** - Tax bill copy- File ANR Map/Par 339/002

**Exhibit C** - Signed authorization for court appointment of Attorney Sabatt File ANR Map/Par 339/002

**Exhibit D** - 1905 Land Court Plan Bacon's Reserved Right of Way/Easement - File ANR Map/Par 339/002

**Exhibit E** – Aerial photo of land – File ANR Map/Par 339/002

**Exhibit F** – Request to Withdraw Application for Modification dated August 10, 2015, as received from Attorney Paul Revere, III – File Sub. No. 350 Dillon Lane – 2159 Main St./59 Dillon Lane, Barnstable

**Exhibit G** - Staff Report Lot Release Request – Woodwind Way, West Barnstable – File Sub. No. 739

**LAW OFFICES OF PAUL REVERE, III**  
226 River View Lane  
Centerville, Massachusetts 02632  
(508) 237-1620

Exhibit #: F  
Date: 8/10/15  
Planning Board

To: Barnstable Planning Board

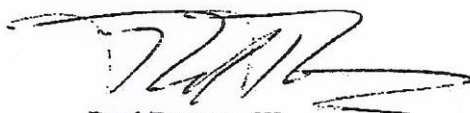
Fr: Paul Revere, III

Re: Subdivision 350 – Dillon Lane (2159 Main St./59 Dillon Lane)  
Application for Modification of Subdivision

Da: July 31, 2015

Members of the Board:

As was discussed with the Planning Board at the last meeting, Danute and Thomas Quinn expect to be withdrawing this application for modification of subdivision 350. It is expected that the withdrawal will be effected during the week of August 3<sup>rd</sup> so that the matter will not be taken up on that date.



Paul Revere, III