



# Town of Barnstable Planning Board



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## Board Members

Mary Barry – Chair   Stephen Helman – Vice Chair   Steven Costello - Clerk   Paul R. Curley   David Munsell   Fred LaSelva   Jeffrey Swartz  
John Norman – Town Council Liaison

## Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director  
Paul Wackrow, Principal Planner  
Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

BARNSTABLE TOWN CLERK

2018 APR 13 PM 1:44

## Town of Barnstable PLANNING BOARD Minutes March 26, 2018

|                                |         |
|--------------------------------|---------|
| Mary Barry – Chairman          | Present |
| Stephen Helman – Vice Chairman | Present |
| Steven Costello - Clerk        | Present |
| Paul Curley                    | Present |
| David Munsell                  | Present |
| Fred LaSelva                   | Present |
| Jeffrey Swartz                 | Present |

Also in attendance were Elizabeth Jenkins, Director, Paul Wackrow, Principal Planner and Karen Herrand, Principal Assistant, Planning & Development Dept.

**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:

Application for an Approval Not Required Plan entitled "Plan of Land of #60 High Noon Drive Centerville, MA", dated February 12, 2018, prepared for Cape Commerce Nominee Trust, prepared by Daniel A. Ojala, PLS.

A request to withdraw has been submitted by Dan Ojala.

Chair Mary Barry entertains a motion to adjust the Agenda and approve the request for withdrawal for this ANR, moved by Stephen Helman, seconded by Jeff Swartz, so voted unanimously.

### Subdivisions:

**Modification to Subdivision No. 809** – Daffodil Lane, Barnstable – Eddy - Extension of Development Agreement and modification of plan- 2 lots into 3.

A request to continue has been submitted by Attorney Eliza Cox.

Chair Mary Barry entertains a motion, moved by Stephen Helman to continue the modification to Subdivision 809 to April 9, 2018, seconded by Jeff Swartz, so voted unanimously.

Chair Mary Barry asks for a motion to open the Public Hearing, moved by Stephen Helman, seconded by Paul Curley, so voted unanimously.

**Special Permits:**

**Special Permit No. 2018-02: 120 Yarmouth Road, LLC** – 100, 106 and 120 Yarmouth Rd., Hyannis – 120 Yarmouth Road, LLC seeks Special Permits for relief from parking lot landscape setbacks and buildings accommodating shared parking lots and driveways. The Applicant is proposing to demolish two existing buildings and construct a medical clinic and associated site improvements.

Attorney Michael Schultz in attendance, representing the Applicant, 120 Yarmouth Road, LLC. Seeking a special permit for dimensional relief, parking lot landscaping and landscaping associated with the development. The Applicant has two purchase and sale agreements in the process; Housing for All and 120 Yarmouth Road, LLC.

He gives a history, they did file with Barnstable Historic - notice for intent to demolish, letter dated Jan. 2018, approved. Properties are in poor condition. 100 to 106 is non conforming structure. They have been to Site Plan Review and have an approval letter.

The proposal is to demolish the existing structures (2), and construct a single story, approximately 5,000 sq. ft. medical clinic, which would meet all setbacks.

Dr. Leslie Tierney, Dermatology Clinic. They are looking for two separate parking facilities. One way access for employees and larger to the South for the patients. Reference to the plan, L1.0, Landscape Plan, Exhibit A. Roughly 25 to 35 cars at peak time.

Dimensional relief for parking lot landscaping and landscaping in general, under §240 24.1.2F and §240 24.1.11 A4 A1 – parking lot landscaping – requires a six ft. buffer must be between the property lines. Reference to the plan, Exhibit A. looking for that dimensional relief, looking to go down to 4 ft., from the 6 ft. requirement. Currently all of rear property line is fenced. These will remain between the adjacent property owners.

The second form of relief is for the interior island parking lot, which is 10% and they are at 3.9%. They do have Site Plan approval for this and the turning radius as well.

The third form of relief is for landscaping relief, unique in the HVB, required 20 ft., they are asking/would like 10 or 10.4 ft. setback.

David Munsell thinks great plan and idea for this area. Zoned medical already in this area.

Relief- He thinks that each site needs to be looked at individually. Asks if we have Site Plan Review? Dumpster in the area? Confirms that they will also be going to the ZBA this week.

Elizabeth Jenkins interjects that yes, it did receive Site Plan approval, last Thursday.

Rich Tabaczynski, Atlantic Design Engineers in attendance. He refers to the plan, Exhibit A and shows where the trash/dumpster will be, in a completely fenced in area. He refers to the landscape plan, Exhibit A (packet). Vegetation that will remain and proposed plantings.

Jeff Swartz asks where is the current business? Is this something that will be new to the town?

Dr. Emily Tierney in attendance. They are now at the Wilkens Center, been there since Nov. 2011. We have served 12,000 clients and are very busy at this practice.

Jeff Swartz clarifies the parking being asked for, two different parking lots.

Fred LaSelva asks about a certified abutter list. Do they have this? No negative responses from any abutters?

Attorney Michael Schultz replies that they have submitted stamps for their certified abutter list and Town staff does this. They have met with some of abutters and have not had any negative responses.

Elizabeth Jenkins interjects that the P & D Staff provide the certified abutter list, we provide and send the notices out. Mass General Law 40a, this is standard procedure for the application.

Fred LaSelva asks about the BHC approval of this project.

Attorney Michael Schultz replies that it went before Barnstable Historical Commission (BHC) and had a full public process re the demolition letter. They have re filed the notice of intent and BHC through the Chair confirmed not a significant bldg.

Fred LaSelva asks how will medical waste be handled? Before opening new bldg.? What happens when you move to the new building with this?

Dr. Tierney replies that they have a vendor that come on a weekly basis to directly pick up waste. We also have a laboratory, that has chemical waste and they have a company that come and pick up these as well. Also certified by the State. This would be a transfer of address form. Administrative process, simple because they are already licensed.

Fred LaSelva asks what is being done regarding the mitigation of traffic for this road?

Dr. Leslie Tierney doesn't think that her daily volume would be any different than any other business in the area.

Fred LaSelva asks if we have a list that has all the variances etc. that have been asked for and has everything been satisfied?

Elizabeth Jenkins clarifies yes.

Paul Curley is in full support of this, this is a good project.  
Steve Costello agrees, he is in full support as well.

**Chair Mary Barry asks for any Public Comment. None.**

**Chair Mary Barry entertains a motion to close the Public Hearing, moved by Stephen Helman, seconded by Steven Costello, so voted unanimously.**

Chair Mary Barry reads the Proposed Special Permit Findings into record: Exhibit B – Staff Report (Draft).

1. 120 Yarmouth Road LIC is seeking a Special Permit to allow for the demolition of two existing buildings at 100, 106, and 120 Yarmouth Road and the construction of a 5,155 square foot medical clinic. The special permit is granted pursuant to §240-24.1.2.F for relief from minimum yard setbacks, 240-24.1.4.C(1)(b) for reduction to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots, and 240-24.1.11 Site Development Standards in Hyannis Village Zoning Districts 240-24.1.11.A to allow the SPGA to reduce the on-site and off-street parking requirements consistent with these regulations.

Relief requested:

Section 240-24.1.11.A, additional site development standards within the Hyannis Village Zoning Districts, requiring "A six-foot landscape buffer must be provided between property lines and parking spaces" reduced to 4 feet

Section 240-24.1.11.A, requiring that "Within the HD, MS, SF and TD Districts, landscaped setbacks from all residential property lines shall be 20 feet" reduced to 10.4 feet from residential property lines.

2. The subject property is addressed 100, 106, and 120 Yarmouth Road, Hyannis, MA and is shown on Assessor's Map 328 as Parcel 194, 196, & 197. It is in the MS – Medical Services District, medical/dental clinics as-of-right.
3. The proposal that is the subject of this application complies with the certified Local Comprehensive Plan.
4. The Barnstable Historical Commission approved an application to demolish the house at 100 Yarmouth Road in decision July 25 2012 and confirmed in a letter dated January 25, 2018 from Commission chair Laurie K. Young.
5. The plan has been reviewed and approved by the Site Plan Review Committee, the conditions of that decision shall be incorporated by reference as conditions of this Special Permit.
6. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or neighborhood affected.
7. The proposal meets Sec. 240-24.1.2E specifically in that the proposal complies with the provisions of the zoning ordinance and is consistent with the applicable criteria for granting special permits. The project is generally consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals of creating consistency with the historic and maritime character of the area, promotes private investment in buildings and structures, and supports appropriate economic development. The proposed building design relates to the surrounding neighborhood context in placement and scale, providing a visual transition between a large, two-story medical clinic immediately to the north, and a residential neighborhood of single family houses to the south.
8. Proposed landscaping will provide a visual buffer between abutting residential and commercial properties.
9. The requirements of 240-24.1.4 MS District are met in that the proposed use presents the medical use desirable within the district.
10. The proposal exceeds maximum lot coverage of 50% in the WP Overlay District, and will require a variance from the Zoning Board of Appeals to proceed as presented. Should a variance not be granted, lot coverage will be required to comply with WP Overlay District lot coverage limits.

Fred LaSelva interjects/asks if this will be fully taxed, a tax paying business? Not a non profit right?

Attorney Shultz and Dr. Tierney reply yes, private practice.

**Chair Mary Barry entertains a motion, moved by Paul Curley to accept the Findings as read , seconded by Stephen Helman, so voted unanimously.**

**Chair Mary Barry entertains a motion to accept the Draft conditions, moved by Jeff Swartz, seconded by Steven Costello to approve, so voted unanimously.**

**Special Permit No. 2018-03: Verizon New England, Inc – 49 Ocean St., Hyannis - Verizon New England, Inc. is seeks Special Permits to alter/expand a preexisting nonconforming use and structure and modify existing Special Permits to reinforce and extend the height of the existing telecommunications tower by +/- 45 feet, plus a +/- 5 foot lightning rod.**

**Chair Mary Barry entertains a motion to open the Public Hearing, moved by Stephen Helman, seconded by Paul Curley, so voted unanimously.**

Attorney Michael Ford in attendance for the Applicant, Verizon.

Ellen Cummings, from Verizon in attendance.

He gives a history of the Verizon Bldg./antenna and use of the property, non conforming use, issued in 1962.

Special Permit has been modified 3 times, 1998, extension of tower, then 1999, to add antennas and then again, antenna addition in 2013. In 2013 it was modified by ZBA. In 2015, Town Attorney's Office wrote opinion/clarified that this project should go to the Planning Board as the Special Permit Granting Authority (SPGA) in this district. The Town had adopted this amendment to the ordinance. This is why we are before you for this to modify the existing Special Permit.

They are seeking an additional 45 ft. increase to tower and two dishes, refers to plan, Exhibit C, would be moved up, but one dish would be at 145 ft. and the other would replace this one.

Applied for relief for two sections: one for pre existing non conforming use and also applied to extend the non conforming use.

Site Plan Review has looked at and approved with conditions. This will also need to file with Hyannis Main Street Waterfront Historic District Commission (HHDC).

Also, the Site Plan letter recommends a peer review.

This will confirm the Verizon's need to raise the tower. Nantucket transmissions coming from them The summary tells what the problem is and why they need to raise the antenna.

Multi path of fading, where beam coming from Nantucket/or refelection - this is in the report/multipath fading, interference which results in dropped calls, including 911 calls (land line). Verizon needs to correct this problem. The extension is the recommendation of NEC.

Why not raise Nantucket tower? Already 220 ft. high, would redirect the angle of the beam if done any higher. Why happening now, why tower not made higher in the begin with? When originally designed the micro wave radios were licensed at higher frequencies. Now lower paths due to the use of cell phones.

There is no objection to undertaking a peer review, Verizon is ok with this.

The Airport has approved the increased height.

Paul Curley comments that he thinks Verizon would be the expert anyway, not sure a peer review would be needed.

Stephen Helman comments that he doesn't feel qualified enough to know if this is best solution/only solution. He would want a peer review, wants to know for sure if this is what needs to be done.

Steven Costello asks if the existing tower needs to be reinforced/expanded at base? Can anything be done to hide it?

Attorney Michael Ford replies not at the base, some reinforcement to the actual structure itself. Hiding may make it worse. Also, there is an existing lease with AT& T and they are on this tower as well.

Reference to plan, Exhibit C.

Steve Costello asks about wifi calling for Nantucket, can this be used/possibility?

Attorney Michael Ford replies this may be a peer review question.

David Munsell asks about the previous extensions and he would like to get a peer review as well.

Fred LaSelva asks what is the reason, other than the 911 issue, that this tower has to be increased 45 ft. what does it impact/revenue? What makes this financially viable for Verizon?

Attorney Michael Ford replies that he can only state that Verizon is unable to provide the service needed/not providing its full service.

Fred LaSelva clarifies that all abutters notified and legal ad done? Any abutters responding?

Attorney Ford replies yes, staff has procedurally done this and they have not heard from any abutters. This is a hard line service problem, not cell service.

Ellen Cummings representing Verizon explains that for Nantucket & Martha's Vineyard, regular telephone/hard line service comes from a microwave signal. A microwave signal transfers the call via a hard line. There is no cable under the ground/ocean. The service does not work that way on these islands. The main problem isn't cell phone calls, these calls are being dropped with analog/pots line calls.

Fred LaSelva asks how many use the land lines as opposed to cell phones there?

Ellen Cummings replies that a lot of people, a lot of full time residents are required to have land lines/hard lines for alarm systems/fire alarms, business owners, quite a bit of need there.

Fred LaSelva comments that Verizon/the poles are joint owned/poles – Eversource and Verizon.

Ellen Cummings confirms and explains the process for grant of location for pole.

Fred LaSelva asks about the inability to lay underground cables, why should village allow an increase when Verizon is not giving anything back to the Town.

Ellen Cummings replies that this would be a Joint venture for project?

Attorney Michael Ford interjects what does this project have to do with this Special Permit application? He clarifies why they are here before the Planning Board.

Chair Mary Barry interjects that she would like to stick to this particular project.

Jeff Swartz also thinks the peer review is the way to go. He would just like some confirmation that they really need to do this. He just wants another layer to make sure 100 percent necessary.

Chair Mary Barry thinks that the report was in good layman's terms, she would also like to see a peer review done. Asks if there is anything that can be done re the interface with the tower with the public/maybe a landscaping or a contribution/park, something maybe done in the past/other areas?

Attorney Michael Ford replies that he will take this up with the company and ask them. Obviously the peer review will have a cost as well.

Chair Mary Barry would like to reduce the impact to the public.

Attorney Michael Ford replies that they will also be going before the HHDC and aesthetics will surely play a part for this.

Paul Curley asks about the peer review time frame?

Elizabeth Jenkins clarifies that they will be looking for a peer review, consultant to confirm that the materials submitted by Verizon support the stated objectives in the application, that the proposed extension is the minimum height necessary to accomplish the stated objectives, and that there are no other alternatives that would accomplish the objectives as stated in the application. It doesn't appear necessary to include an evaluation of the structural analysis submitted with application materials, but after consultation, the Bldg. Division would handle with application. An initial quote ready possibly in two weeks at the next meeting. Will let the Board know if need a continuance.

Paul Curley asks if the Special Permit can be worked on concurrently , Findings and Conditions at the same time filing being done with Historic Commission for being done timely?

Elizabeth Jenkins states yes. Draft Findings/Conditions already in progress. HHDC will most likely be looking for info/support from the Planning Board as well.

Attorney Michael Ford states they will be proceeding and filing with HHDC.

David Munsell suggests having people submit questions for the peer review and hold off on the peer review until the next meeting to see if it is needed.

Fred LaSelva comments that along with the peer review he would like to have it include a potential improvement of the area around this facility.

Attorney Michael Ford clarifies that he does not think this is part of the peer review, this seems like a different question entirely, which he will present to the Applicant. He would like to have a time by which the study would be done – 2 weeks quote - time by which study will be done.

Elizabeth Jenkins replies they will request this as well.

**Motion made by Stephen Helman to take first step to hire outside consultant for peer review, for review of this application (scope of work) to the next meeting of April 9, 2018, at 7:00 p.m., moved by Mary Barry, seconded by Steven Costello.**

**Yes - votes: Mary Barry, Stephen Helman, Paul Curley, Steven Costello, Fred LaSelva, and Jeff Swartz**

**No - vote: David Munsell**

**The Motion passes 6 to 1.**

Jeff Swartz asks for clarification that there has been some preliminary work done regarding obtaining a consultant. ?

Elizabeth Jenkins clarifies that they have a couple of names/people that they are going to reach out to for peer review. Cotuit did not get a peer review, this was replacement.

**Chair Mary Barry entertains a motion to continue the Public Hearing to April 9, 2018, seconded by Steven Costello, so voted unanimously.**

**Chair Mary Barry entertains a motion to adjourn, moved by Stephen Helman, seconded by Jeff Swartz.**

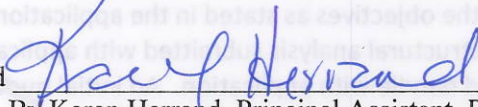
**Correspondence:**

Chapter 91 Notice – 157 Pleasant St., Hyannis – Hyannis Inner Harbor

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

The meeting adjourned at 8:22 p.m.

Respectfully Submitted

  
By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

April 9, 2018

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** – landscape Plan – Special Permit No. 2018-120 – 120 Yarmouth Rd. LLC – Map/Parcel 328/194

**Exhibit B** – Staff Report – Special Permit No. 2018-02 – 120 Yarmouth Rd. LLC – Map/Parcel 328/194

**Exhibit C** – Verizon Tower Plan – Special Permit No. 2018-03 – 49 Ocean St., Hyannis – Map/Parcel 326/025