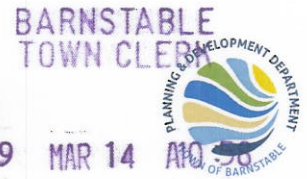




Town of Barnstable Planning Board

www.town.barnstable.ma.us/PlanningBoard



Board Members
Mary Barry – Chair Stephen Helman – Vice Chair Steven Costello – Clerk Fred LaSelva Jeffrey Swartz Patrick Foran Walter Watson
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

Town of Barnstable PLANNING BOARD Minutes February 11, 2019

Mary Barry – Chairman	Present
Stephen Helman – Vice Chairman	Absent
Steven Costello - Clerk	Absent
Fred LaSelva	Present
Jeffrey Swartz	Present
Patrick Foran	Present
Walter Watson	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.

Special Permits:

Special Permit No. 2018-08 - MAJ Commercial Realty, LLC seeks a Special Permit pursuant to Zoning Ordinance Section 240-24-1.11.A Site Development Standards to reduce the on-site and off-street parking requirements, and Section 240-24.1.2.F for dimensional relief within the Hyannis Village Zoning Districts to allow for the redevelopment of an existing retail site including the demolition of an existing building, remodeling of a second existing building; reconstruction of parking areas, loading areas, and storm water system; installation of landscaping, signage and sidewalks, and consolidation of curb cuts into one standard entrance at 316 Iyannough Road and a portion of 290 Iyannough Road leased from the Barnstable Municipal Airport.

Chair Mary Barry entertains a motion to open the Public Hearing, moved by Jeff Swartz, so voted unanimously.

Attorney Paul Tardif in attendance, representing MAJ, Commercial Realty LLC, the Applicant.
Chris Keen from Atlantic Engineering in attendance as well.

Attorney Tardif gives an explanation of the purchase of the property/lease with the town for parking spaces on the East side of the lot, Ideal Floor Coverings. Two structures, removal of front bldg., this will be where parking will be. Relief mostly for parking and buffer.

On site current 6 spaces, no curbs now. 4 ft. wide small buffer and an additional 14 ft. buffer/landscape. Bldg is in the back part of lot. Parking will need to be in the front. They are proposing 26 spaces. Landscaping issues/have a proposed plan, he refers to the rendering, Exhibit A. Updated plans, been to Site Plan Review and Fire Dept. Refers to Staff Report, this should read as a 20 year lease with the town, Exhibit B.

Jeff Swartz asks about the turning radius.

Attorney Tardif replies that this is all set it has been signed off on and approved by the Fire Dept.

Chair Mary Barry entertains a motion to close the Public Hearing, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.

The Findings are read into the record: Exhibit B.

1. The subject property is addressed 316 Iyannough Road, Hyannis, MA, shown on Assessor's Map 328 as Parcel 232 and includes an approximately 8,154 sq. ft. portion of 290 Iyannough Road shown on Assessor's Map 328 as Parcel 107 leased from Barnstable Municipal Airport. It is in the HG – Hyannis Gateway District, which permits retail uses as-of-right that do not increase the number of vehicle trips per day and do not increase peak hour vehicle trips per day.
2. MAJ Commercial Realty LLC is seeking a special permit to allow for the demolition of one existing building at 316 Iyannough Road, the remodeling of a 12,381 sq. ft. building for retail use at 316 Iyannough Road, and site improvements at 316 Iyannough Road and a portion 290 Iyannough Road leased from the Barnstable Municipal Airport.

Relief Requested:

- a. 240-24.1.8.C(1) and 240-24.1.11.A(5)(b) - Front yard landscape setback requirements reduced to approximately four feet from a 60 foot requirement in the HG District. Currently, there is no landscape setback between the street line and front parking area on the majority of the property's frontage. This proposal substantially reduces the degree of nonconformity.
 - b. 240-24.1.8.C(2)(d) – Relief from the standard stating "Parking at the front of the lot is discouraged" due to existing site constraints. The reconfigured site improves circulation so vehicles no long back into the Route 28 layout. Parking is being expanded from approximately six spaces to 26 spaces.
 - c. 240-24.1.11.A(4)(a)[1] and 240-56 Parking Requirement calling for 47 parking spaces, reduced to 26 spaces.
 - d. 240-24.1.11.A(4)(d)[1]-[4] Relief from off-street parking requirements related to parking lot landscaping, including:
 - [1] Requirement of six three-inch caliper trees (four trees provided)
 - [2] Requirement of six foot landscape buffer between property lines and parking spaces (approx. 2.5 ft. grass buffer provided)
 - [3] Requirement of six foot landscape buffer between building and parking spaces (approx. 4 ft. grass buffer provided)
 - [4] Requirement that 10% of the interior parking lot be landscaped (no interior landscaping provided)
3. The special permit is granted pursuant to Section 240-24.1.2.F for relief from minimum yard landscape setbacks and Section 240-24.1.11.A(4)(a)[4] for relief from parking requirements. Additionally, Section 240-24.1.8.C(2)(e) allows the Planning Board to grant relief from required parking within the Hyannis Gateway District where the applicant provides transit improvement incentives. As part of this proposal, the applicant is reducing the width of the curb cut.
 4. 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.
 5. The plan has been reviewed and approved by the Site Plan Review Committee under an approval dated September 28, 2018.

6. The development is generally consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals to "enhance opportunities for eliminating curb cuts" (Goal 6). The proposed site design improves site circulation, relocating and reducing the size of the curb cut onto Route 28.
7. The proposal meets criteria for granting special permits within the Hyannis Village Zoning Districts, specifically Section 240-24.1.2.E(1)(d) "The development eliminates or minimizes curb cuts and driveways on Route 28 and Barnstable Road."
8. This proposal reduces the degree of nonconforming impervious lot coverage at 316 Iyannough Road from 10,658 sq. ft. (74.9%) to 10,629 sq. ft. (74.7%).
9. The proposal that is the subject of this application complies with the certified 2010 Town of Barnstable Local Comprehensive Plan and the 2018 Downtown Hyannis Growth Incentive Zone Application to the Cape Cod Commission.

Motion made by Jeff Swartz to approve the Findings as written, seconded by Mary Barry, so voted unanimously.

Chair Mary Barry entertains a motion to accept the Draft Conditions as presented, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.

Regulatory Agreements:

Regulatory Agreement No. 2019-01 – T-Mobile Northeast, LLC and South Congregational Church, Incorporated seek to enter into a Regulatory Agreement with the Town of Barnstable to install a Personal Wireless Service Facility within the South Congregational Church on the property at 565 Main Street, Centerville. The Personal Wireless Service Facility consists of six (6) wireless communications antenna within the Church steeple, together with appurtenant equipment within the steeple and in the basement of the Church. All of the antennas are installed out of view behind the belfry louvers and walls of the steeple. The property is developed with a 2,200 sq. ft. church building, a 4,613 sq. ft. church annex, a 1307 sq. ft. house and 1,110 sq. ft. shed. The property is zoned CVD – Centerville Village District and DCPC – District of Critical Planning Concern, shown on Assessor's Map 207 as Parcel 053. The total land area of the lot is approximately 1.38 acres. *Continued from January 28, 2019.*

Chair Mary Barry clarifies that this is an open public hearing.

Elizabeth Jenkins summarizes the Peer Review Report, Exhibit C. This is a National Consultant that works specifically for municipalities, looked at from a few different perspectives, compliance with FCC and safe emissions standards. Search ring, concluded that there was spotty coverage and noted the importance/bands/alternative sites. The selected site area minimized exposure, one comment for another alternative, also within the sister DCPC as well. Concludes that resulting level is less than 6% of exposure. They did ask for FCC to provide a statement that the installation will not interfere with safety.

Attorney Ricardo Sousa for T-Mobile Northeast in attendance. He states that he thinks it's clear that T-Mobile has demonstrated, per the report submitted. Drive test done that further codifies the nature of the gap that T-Mobile has. Reference to the maps, Exhibit D. This will show and predict the frequency propagation. The engineers drive around and look for coverage. He has copies of the drive test, Exhibit E.

Ryan Monte De Ramos in attendance, representing T-Mobile. He explains the drive test results, Exhibit E. Clarifies the route where the driving was performed. Green and yellow area is the desired coverage. Red means that signal dissipates, gets weaker. Black is the worst signal/basically no coverage. Drive test date LTE. He explains coverage/frequency/bands and how phone service will or will not work.

Walter Watson asks about the bands – new to work in 2100 zone? Clarifies the expanded coverage, will any of these be phased out by any other type of capability? Negotiation with Sprint to use their spectrum, any

Any Sprint towers in the area? Water tower is .92 of a mile away. Compares the height of the tower to the church, how much less would be achieved in coverage?

Attorney Sousa replies, the new site will have 2100, 1900 and 700.

Ryan Monte De Ramos replies, that re farming/normally don't remove equipment but use on a different technology.

Attorney Sousa replies that they are always looking for more and more spectrum to be able to deploy to keep up with the demand. Overloading networks. Data transmissions. The water tower is to far north, north of Rte 28 to use for this spectrum. There are other Sprint sites. It's a matter of filling the gapping coverage/ring. Reference to the maps/Exhibit D. The signal will not be able to move far enough south to provide reliable coverage.

Ryan Monte De Ramos replies that you have to consider the obstructions as well aside from the distance, that's the problem, as you go further away from the area.

Patrick Foran clarifies the drive map, Exhibit E, and the colors/range. He thinks the maps are contradicting.

Ryan Monte De Ramos replies that this is a prediction, but the driving map is the actual driving around experience of the signal in actuality. 97 or higher is unacceptable, lower score is better.

Jeff Swartz asks why using a higher powered phone? Shouldn't the Peer Consultant see this?

Ryan Monte De Ramos replies that it's a phone/device that has a higher sensitivity so can visually see the signal/data. A regular phone would not pick up anything.

Attorney Sousa replies that a Peer Reviewer would have done their own test. He has no objection to the Peer Review see their drive test.

Fred LaSelva clarifies/asks about consultant's conclusions. Is this report conclusive?

Attorney Sousa replies that this is the consultant's job. He thinks plots are so clear that there is a need for a site here. The consultant agreed with the T-Mobile calculations. Why would they go through this process/and expense if they didn't really need to fill a gap in coverage here.

Jeff Swartz directs to Staff – does Attorney Revere have the right to see the Peer Review.

Elizabeth Jenkins replies, that we did allow.

Public Comment:

Attorney Paul Revere in attendance, representing the Centerville Concerned Citizens. Peer Review Report– his opinion is that it is inadequate. He reads prohibition notation into record.

Jane Caputo in attendance. She quotes some information about Fire Fighters that had cell towers on their Fire Stations – abnormal brain function/health issues. Towers are health hazards. Electromagnetic fields – opposition.

Joanne Huffman, 555 Main St., Centerville in attendance. She reads her notes into record. City Scape's Peer Review report contains data from a Gary Bostwick who works for T-Mobile. Do not accept this report as fair or independent - opposition.

Mike Hurley in attendance. Refers to the peer report. Has a problem with the Commercial strength that they need -opposition. Hands out copy of Building Permit Application, Exhibit F.

Attorney Sousa replies that Gary Bostwick, pg. 4 of the report, the 3rd party is someone from T-Mobile. At no point is City Scape suggesting that they put in the information.

Ellen Queeny, Park Ave, Centerville. Surprised that the FCC decided that communities don't have any say in what happens in their communities. Suggest that there is a morale obligation for protection as citizens – opposition.

Patrick Nichols/wife in attendance (for him). Talks about urgency notices. Listen to the villagers-opposition.

Kathy Garrity in attendance. Concerned about the health effects. Peer Review, why only look at structures and not people. Some emissions will go through buildings, how does this effect human beings. Church people, do they live in the area? DCPC was implemented here. Why no mention of other carriers in report - opposition.

Gary Conway, Park Ave, Centerville. DCPC protection. Village description. T-Mobile/Sprint to merge. Cape Cod Commission – regional and national to protect the area/resources. DCPC ordinance read –opposition.

Lisa Conway, Park Ave., Centerville in attendance. She reads her notes into record – Protect the DCPC, and historic Main St. in Centerville –opposition.

Husband in the military – This should have been denied at the beginning shouldn't have been done in the first place. This is post justification. Already built but don't need to do. Uphold the DCPC – opposition.

Dianne Covanda in attendance, also speaking for her Mother. Her mother is a satisfied T-Mobile customer. She did a drive test for signal/data and phone works everywhere – opposition.

John Curley, Bay Lane, Centerville. He has no service on Bay Lane, he is a Verizon customer. Other carriers have problems to.

Nancy Snell, Church Hill Rd., Centerville. DCPC states no change of use, you cannot put this in a church steeple, why wasn't this found out in the permit process – opposition.

Anca Vlasopolos, Centerville. Merger with T-Mobile/Sprint. Objectionable that a church would get involved - opposition.

Town Councilor Britt Beedenbender, Precinct 4. The area is not commercial. Health concerns. FCC regulations prohibit based on health concerns. DCPC. Telecom making it impossible for public to have a say. Consumer awareness and health and well being should be a priority concern –opposition.

Jennifer Lynch, Centerville Concerned Citizens. Peer Review Report. T-Mobile influenced this report, town should not accept this report. What commercial buildings here? DCPC –opposition.

Tom Nortz, Centerville, in attendance. T-Mobile customer. Bed and Breakfast owner. DCPC regulations. They couldn't change anything in the DCPC as a Bed and Breakfast owner he's had to comply. Stand firm on the DCPC- opposition.

John Bross, Centerville/Northern. He doesn't live on Main St., his experience is different, problems with signal, south of monument square the T-Mobile signal is spotty/weak. Huge hole in the Craigville Beach/Four Seas Ice Cream area, routinely loses calls. Several people can't make calls with T-Mobile, we need additional antennas – in support.

Janet Davis, Co Chair of Centerville Concerned Citizens. We need protection – opposition.

Chair Mary Barry directs to Attorney Weil regarding any FCC requirements that need to be addressed.

Town Attorney Ruth Weil replies that there are limitations on what local boards can do. The FCC prohibits local boards. It is federal law that upholds this issue of radio frequency is not within a local board. Limited to the local zoning issues. Can ask the Applicant to provide information.

Chair Mary Barry clarifies that we do not have jurisdiction.

Elizabeth Jenkins comments that in terms of procedure the Planning Board can request the Peer Review Consultant to come and present and clear up issues. Option to close the public hearing.

Walter Watson asks about the limitation re town and the FCC. This is a waiver request for the DCPC, neither have anything to do with T-Mobile.

Ruth Weil – states that local boards can make local decisions based on their local zoning. Federal courts can look at the gap of coverage issue, known as effective prohibition. It may be more prudent to rule on the effective prohibition issue, if local doesn't rule Federal Court can.

Patrick Foran would like to have a representative from City Scape come and keep the public hearing open, if permissible.

Chair Mary Barry agrees.

Jeff Swartz directs to Attorney Weil. He refers to ZBA permitted uses Chapter 240 - is this from Cape Cod Commission (CCC) or Town's law.

Attorney Ruth Weil replies that it is designated by Town, then goes to CCC, then moratorium, then approved by Town Council for approval. These are the Town's regulations for DCPC.

Jeff Swartz quotes Zoning Board of Appeals (ZBA) Chapter 240, subject to limitation, other uses may also be considered subject to a regulatory agreement. Clarifies the use for a regulatory agreement. Only adopted by Barnstable. The course of action confuses him.

Attorney Ruth Weil can't comment as to why T-Mobile went to ZBA first. DCPC regulations contemplates going for regulatory agreement.

Sarah Burns/Janet Davis. Think their legal representative should have more time to speak - Attorney Paul Revere.

Chair Mary Barry entertains a motion to have the consultant come and speak at next meeting on February 25, 2019, moved by Patrick Foran and to also keep the public hearing open, so voted unanimously.

Attorney Sousa states that he will need approval to pay the additional expense to get consultant to come from Florida, City Scape. He'll have to check with T-Mobile and get approval. He is amicable to extend to March 13, 2019, with ZBA as well. He will confirm with Elizabeth Jenkins/Staff re tolling/time limits as well.

Approval of Minutes: June 25, 2018, Draft Minutes

Chair Mary Barry entertains a motion to approve the draft minutes of June 25, 2018, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.

Correspondence:

Chapter 91 Application: Vineyard Wind Connector/Joint Application/License/Permit and Section 401 Water Quality Certification – Vineyard Wind LLC - Jan. 18, 2019.

Chapter 91 Application: Paul Capasso, 116 Bay Shore Rd. – replace pilings, float, pier.
Chapter 91 Notification: 235 Cedar Neck Rd., Barnstable – rock revetment.
Chapter 91 Notification: 65 Waterman Farm Rd., Cent. – construct boardwalk, ramp & float.

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: February 25 and March 11, 2019, @ 7:00 p.m.

Chair Mary Barry entertains a motion to adjourn, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.

The meeting adjourned at 9:06 p.m.

Respectfully Submitted


By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on

March 11, 2019

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** – Special Permit No. 2018-08 – MAJ LLC – Site Plans
- Exhibit B** – Special Permit No. 2018-08 – MAJ LLC – Draft Staff Report
- Exhibit C** – Reg. Agrmnt No. 2019-01 – T-Mobile – CityScape Consultant's Report
- Exhibit D** – Reg. Agrmnt No. 2019-01 – T-Mobile – LTE information/Maps
- Exhibit E** – Reg. Agrmnt No. 2019-01 – T-Mobile – Drivetest Data Maps
- Exhibit F** – Reg. Agrmnt No. 2019-001 – T-Mobile – copy of Bldg. Permit submitted by citizen