



BARNSTABLE  
TOWN CLERK

# Town of Barnstable Planning Board

[www.town.barnstable.ma.us/PlanningBoard](http://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](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes February 25, 2019

Mary Barry – Chairman	Present
Stephen Helman – Vice Chairman	Present
Steven Costello – Clerk	Present
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.

**Chair Mary Barry moves Agenda items out of order:**

### Approval Not Required Plans

Lawrence Hollings, 1254 Santuit Newtown Road, Cotuit, has submitted a plan entitled "Approval Not Required Plan" drawn and stamped by Joel R. Kubick, P.L.S., of Holmes and McGrath, Inc., dated February 14, 2019 - *Copy of staff report, application, plan, and associated documents enclosed*

Patrick Roche in attendance, from Holmes and McGrath. He gives a brief explanation of the proposed ANR, parcel A conveyed to lot 2B, creation to lot 2C. Subject to Zoning Board of Appeals (ZBA) decision, sub plan created in 2007. ZBA decision allowed for the reduction of lot coverage. ZBA approved the decision.

**Chair Mary Barry entertains a motion, moved by Jeff Swartz, seconded by Fred LaSelva, so voted unanimously to endorse/approve.**

### Zoning Amendments:

**Town Council Item No. 2019-092** – Amending the Zoning Map of the Town of Barnstable Massachusetts to Amend and Expand the Residence C District to Include the Entirety of 306 West Bay Road, Osterville, Identified on Assessor's Map 116 as parcel 014.

**Chair Mary Barry entertains a motion to open the public hearing, moved by Jeff Swartz, so voted unanimously.**

Attorney Albert Schultz in attendance. He refers to the copy of the map, Exhibit A. This was conveyed in 1951, 1998 conveyed to 306 West Bay Rd.

**Chair Mary Barry asks for public comment – None.**

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

**Chair Mary Barry entertains a motion to recommend, Jeff Swartz moves to approve as written, so voted unanimously to recommend to Town Council.**

***This item was moved out of order:***

**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<sup>th</sup>, and February 11, 2019.*

Attorney Ricardo Sousa in attendance for T-mobile, he gives a background/history. He did not submit any additional information.

Attorney Jessica Powell in attendance, representing the South Congregational Church, on behalf of the congregation's leadership. She gives a history of the church and their affiliation with the United Church. Cell antennas will help to provide 911 coverage and this will not spoil the aesthetics. This has complied with all building and safety requirements. There are approximately 162 cell antennas/towers in the Town of Barnstable. This is one of several churches that have antenna arrays. We have followed applicable laws.

Jonathan Edwards of City Scapes in attendance. He gives a history of how he is hired, there are 4 main factors looked at. Applicant had to meet.

Applicant has provided coverage maps/data/drive test data – these show that there is some lack of service. Did look at 4 other locations, Craigville Beach Club, Christian Camp Meeting Association, Trade Winds, Roman Catholic Bishop, these were outside the search ring. They have found that the proposed site is the best for the goals T-Mobile would like to meet. Radiation/exposure and compliance with FCC and public safety standards are met.

**Chair Mary Barry asks to explain what a Peer Review is.**

Mr. Edwards replies, that they were asked to look at by the Applicant – look at ordinance and what Federal law states. We look at both sides of these laws, both local and federal, least obtrusive sites to make sure the Planning Board's and local community is not taken advantage of. Boards are not allowed to deny an application if the need is there. City Scape was hired by Barnstable, separate from T-Mobile, no affiliation.

Jeff Schwartz asks how many of these has he done?

Mr. Edwards replies over a hundred.

Steven Costello ask for any input he may have re local areas, ordinance and the hierarchy of?



Mr. Edwards replies that they look at other options, lower locations, but this one was concealed. Local can require concealment/cannot say flat out no.

Steven Costello asks about health risks, how does this compare/opinion for?

Mr. Edwards replies that there is a lot of sensitivity and aesthetics. The FCC has a guideline of criteria as to what a safe distance is. Usually the general public doesn't know this/these studies/information. Different issue if challenged by Congress. They have limited local governments as long as it meets their bulletin. This is a separate issue for local to challenge.

Patrick Foran confirms that they did not do a drive test or what T-Mobile presented. Did you look at other sites, maybe the water tower up the road?

Mr. Edwards states that this is too far, he looked at it and confirms T-Mobile's search ring, this wouldn't meet their goal.

Fred LaSelva asks of the hundred done, how many have been turned down? Has the info you get always provided by the carrier.

Mr. Edwards replies, less than half a dozen. Yes, they use the carriers information.

Jeff Swartz clarifies that it comes from the carrier, typically.

Attorney Paul Revere in attendance, he represents the Concerned Citizens of Centerville. He refers to the map, see Exhibit B on the screen, 4 corners intersection, District of Critical Planning Concern (DCPC) regulations for this area and regulations, section 240-30 etc., the 1999 regulations of cellular array, decision by the Town Council. DCPC has a few options – but a Regulatory Agreement is allowed/other uses may be considered. This is the same use that was excluded in the DCPC. Regulatory Agreements usually come with a benefit, but in this case the FCC is saying that you will be sued if you don't do it.

Report – scope of work – questions not asked- where are the human safety codes/structure appropriate physically/compliance with zoning approvals/aesthetic property impact, search ring adequate? This evaluation seems like a rubber stamp.

Kevin Davis, owner of Davis Towing in attendance. He used T-Mobile for night dispatch/AAA. They do not have any problem with coverage/communication. Thinks the community is being torn apart over this – opposition-

Joanne Uckman, 555 Main St., Centerville in attendance. She hands out document, Exhibit C. Data information from a drive test – 37 minutes. Used T-Mobile service with 2 phones. They had no dropped calls, performed the test twice. They used T-Mobiles map/from website – opposition -

Meg Loughlin, of West Barnstable, here on behalf of Lorraine O'Connor, 555 Main St., Country Store. She reads the letter into record. Owner of 1856 Country Store –opposition-

Tegan Garrity in attendance (minor child). She was encouraged by her Mother to speak at this public hearing. – opposition -

Mark Shindler of Centerville in attendance. Questions regarding historic in keeping with the character of the village, protect the spirit. This goes against the DCPC. Why give up something that offers very little benefit. – opposition-

Joyce Frederick, 382 Main St., Centerville. Health concerns regarding EMS/cancers. Corporate greed is why this is being presented – opposition -

Reza Mahdavi, Bacon Lane resident, Centerville, T-Mobile customer. Cannot live and work without their network. Home values/property values will be effected. Health/historical character and the net worth. What is the benefit to the community? Another way without dividing the community/church.- opposition -

Janet Davis in attendance. FCC and Congress/emissions standards are not being enforced. There is a lack of enforcement for the standards. Property devaluation concerns. Health concerns – opposition -

Mike Curley in attendance. Bldg. permit sign off should not have been done. Hands out copy of Bldg. permit, Exhibit D- opposition -

Gary Conway, Park Ave., Centerville in attendance. He has looked at the code, 240-187e, equipment / steeple and setbacks for new cellular under current guidelines would require set back of 15 ft, this church is on a corner lot, because of this it is 30 ft. Hand out, Exhibit E. Health concerns. Financial concerns – opposition-

Marie Pierre Dillenseger, Bacon Lane, of Centerville in attendance. T-Mobile satisfied customer. Property value concerns/tax assessment issues. Impact/revenue for the Town. Who will monitor the emissions? Who will check for safety – Health Dept? Who will we turn to in the Town? – opposition -

Jillian Robertson in attendance, Captain Kelly House, 3 doors down from the church. The DCPC matters – opposition-

Molly Sproul, Main St., Centerville. Makes reference to the collage, (power point pictures). Uphold the DCPC. History needs to be protected. Health concerns – opposition-

Jennifer Lynch in attendance. Will Church be taxed at a commercial facility/commercial enterprise? Will the Town tax them as such? City Scape report – took T-Mobile information to make the report. Does not believe T-Mobile's data information. – opposition-

Dianne Covanda, Centerville in attendance. Got T-Mobile information – all works well. –opposition-

Tom Fair, 558 Main St., Centerville in attendance. Asking the Planning Board to say no. – opposition-

Nancy Snell in attendance, Centerville. T-Mobile's other town's where they wanted to put up cell antenna/towers and denied. Reads in Corrine Whitaker's letter – opposition-

Jack Dambrosia, 43 Bacon Lane, Centerville in attendance. Health concerns. – opposition-

Marie McHugh in attendance, Centerville. Thinks this is not right for the village –opposition-

Lisa Conway, Park Avenue, Centerville in attendance. City Scape quote – people live within feet of this antennae – opposition -

Walter Watson directs to the Church's attorney, is this church a business of charity – does the client benefit from being within the DCPC zone? Spirit and intent - tower is hidden. Refers to the pre amble of the United Church of Christ, 3<sup>rd</sup> paragraph.

Attorney Sousa replies that the church has been there much longer than the DCPC has been there. The regulatory agreement does not violate the regulatory agreement provisions of the DCPC.

Jeff Swartz asks why did they go to Zoning Board of Appeals (ZBA) first?

Attorney Sousa replies that T-Mobile has never suggested that they would sue the Town. They have met with all re the zoning ordinance – and where concealed, we were guided to obtain a Bldg. permit. Then they had to enter a stay. Some cases cannot have any wireless equipment. Use variance can be obtained per federal law. That's why they submitted to ZBA, they decided not to do and that it would be proper to file with



Planning Board pursuant to ordinance. They have been guided and done what the town has recommended them to do. Why would we go through the process/time/money to build something that we really do not need? We have to pay rent for this. The Peer Review has proven this. Two boards here can grant (unique situation) either. The Federal Law states a city or a state cannot prohibit. The Telecommunications Act – main issues are health concerns. Many towns have emissions monitored. A lot of cities do this. It is very common to use church steeples due to the concealing.

Fred LaSelva asks: what kind of phone, I phone 7 was used for the Exhibit C research –inquires if T-Mobile would use a stronger phone?

Attorney Sousa clarifies that they did not do or have anything to do with the City Scape Peer review. T-Mobile rep clarifies that he uses a more sensitive phone/equipment to collect data – more technical type of data is needed. They use an industry standard phone. The I phones that the public used are not the same.

John Bross in attendance. Different areas, West and North where he cannot get coverage/signal. Suggests that an inside signal is weaker – support -

Sue Ellen O'Neill, 547 Main Street, Centerville. Equipment that T-Mobile uses, is this a standardized method testing that is used everywhere? –opposition-

Ryan Monte DeRamos replies/explains that they provide a drive route/industry test equipment/temps phone used, high sensitive phone that decodes information and goes to a computer. RSRB signal level. Different modes for data gathering. Lock file to process all the information.

Michael Curley in attendance. Clarifies the industry phone that T-Mobile uses/a 5G future phone – opposition -

Anthony Ambrogio, Lumbert Mill Rd., if coverage is so crucial, how will you know unless you go out and do a test yourself.

**Motion made by Jeff Swartz to close public comment, seconded by Steven Costello, all in favor - Fred LaSelva is opposed.**

Jeff Swartz asks/direct to Jonathan Edwards, City Scape - Property values – he has been in hearings where it has come up but he doesn't have any comment.

Steven Costello asks/directs to Town Attorney Ruth Weil. Town's perspective on this – asks for clarification re the appropriateness, Town Council 2009, section 240-130 and that these are not permitted uses, is this the case?

Town Attorney Ruth Weil replies that 240-2-30.3b there are very few allowed/permitted uses. It is her understanding that the Cape Cod Commission specifically says that other uses may also be considered subject to the Regulatory Agreement and has to be of appropriate scale and function.

Jeff Swartz comments that we had another Peer Review for another cell tower and we accepted that one. Just cell service is not enough, there should be more public benefit – re a Regulatory Agreement.

**Chair Mary Barry entertains a motion, moved by Patrick Foran, Regulatory Agreement No. 2019-01 is denied per the following Findings;  
Negative Findings are read into record, Exhibit F:**

1. On January 10, 2019 T-Mobile Northeast, LLC (hereinafter T-Mobile, or Applicant), together with the South Congregational Church, Incorporated filed a regulatory agreement application pursuant to Chapter 168 to install six (6) wireless communications antennas, together with

Remote Radio Heads (RRH), within the existing steeple of the South Congregational Church at a centerline height of sixty (60) feet. Further, appurtenant base transceiver equipment consisting of equipment cabinets and ancillary equipment will be installed in the basement of the Church.

2. Chapter 168 of the Town Ordinances allows for the Town and qualified applicant to enter into a Regulatory Agreement, “a contract entered into between...Town of Barnstable and a holder of property development rights, the principal purpose of which is to negotiate and to establish the development regulations that will apply to the subject property during the term of the agreement and to establish the conditions to which the development will be subject...” The subject property is in a Regulatory Agreement District, as shown on the Regulatory Agreements Map, referenced in Section 168-1(B) and Section 240-131.1(B). The Applicant, together with the property owner, is eligible to apply for a regulatory agreement under Section 240-130.3 Permitted Uses, which states: “Other uses of an appropriate scale and function may also be considered subject to a regulatory agreement...”
3. Section 240-130.5(A) establishes the sections of the Barnstable Code that are incorporated into the Centerville Village District. Sections of the code that are not explicitly listed in this subsection are not considered applicable within the Centerville Village District Article X Personal Wireless Communication of the Zoning Ordinance (§§240-106 – 240-109) and is not incorporated into the Centerville Village District. Thus, wireless telecommunication facilities are not considered a permitted use in the Centerville Village District.
4. The Cape Cod Commission Act defines a “district of critical planning concern,” or DCPC, as a “geographic area of Cape Cod identified by the commission as requiring special protection and designated by the assembly of delegates in accordance with the criteria procedures and requirements set forth in sections ten and eleven.” Chapter 716 of the Acts of 1989, as amended at Section 2(j). The Centerville Village district DCPC, comprising 7.4± acres and 13 parcels, was approved by the Barnstable County Assembly of Delegates in May 2008 pursuant to Section 10 of the Act. The DCPC implementing regulations were adopted by the Town Council on July 16, 2009, subsequently approved by the Cape Cod Commission and codified under Section 240-130 of the Code.
5. The regulations contained in Sections 240-130 through 240-130.8 are the adopted DCPC implementing regulations. These implementing regulations are the means by which all development is regulated within the district; grandfathering provisions and/or nonconforming rights conferred by M.G.L. Chapter 40A do not apply within a D.C.P.C. such as the Centerville Village District.
6. The subject property is a 1.38 acre lot located at the intersection of Main Street and Church Hill Road in Centerville. The lot is improved with the Greek Revival style South Congregational Church of Centerville, a contributing building in a National Register Historic District, built circa 1796.



7. According to Section 240-130.1, the purposes and intent of the Centerville Village District are to guide development and redevelopment in Centerville Village that:
- Promotes a location-appropriate scale and traditional mix of business, institutional and residential land uses that contribute to and respect the historic character and historic neighborhood development patterns;
  - Acknowledges the historic context of the village, including the National Register District which encompasses properties in the northern portion of the district;
  - Protects and preserves the historic and scenic streetscape and minimizes traffic congestion;
  - Provides a variety of functions that support residents' day-to-day use of the district;
  - Supports and enhances the diverse local economy and retains established village goods and service offerings;
  - Preserves and protects the traditional New England village character of Centerville through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of Cape Cod and New England to enhance the aesthetic quality of Barnstable as a whole.

The further purpose and intent of this section is to enable the Town of Barnstable to enter into development agreements (hereinafter "regulatory agreements") under Chapter 168 of the Code of the Town of Barnstable (Barnstable Code) within the Centerville Village District (CVD).

8. The character of "commercial" land uses in this area are small-scale in nature and are located in historic or residential style structures, not typical large-scale commercial buildings typically found in suburban or urban areas. This indicates that the signal strength to support in-building commercial coverage, identified as "optimal" by T-Mobile, is not necessary to provide adequate coverage given the unique character of the area, land uses, and structures.
9. Alterations proposed as part of this application will impact the historic integrity of a building included on the National Register of Historic Places. The cables connecting the antennae to the equipment room are routed along the building's exterior at the rear of the church. Exterior alternations include the installation of a cable chase at the southeast corner of church, the use of cable support clips to secure cables under the soffit of the Church Annex, and the installation of an outdoor HVAC condenser unit along the north elevation of the Annex. The cable chase is installed over the Church's cornice entablature and corner pilaster, altering and obscuring architectural features noted in South Congregational Church's nomination for inclusion in the National Register of Historic Places (Barnstable Multiple Resource Area, 1987). The use of support clips to secure cables under the soffit of the Annex leave cables clearly visible. No screening is provided for the HVAC unit installed on north elevation of the annex, directly adjacent to the Church's cemetery. Although Section 106 documentation indicates these alternations will be will be "limitedly visible from the surrounding historic district," exterior alterations are clearly visible from Church Hill Road, a public way within the Centerville Historic District.



10. Section 240-130.3 of the DCPC implementing regulations limit the types of uses that may be considered under a regulatory agreement to those "...uses of an appropriate scale and function." Based upon the above described adverse impacts that the placement of six (6) wireless communications antennas, together with Remote Radio Heads (RRH), within the existing steeple of the South Congregational Church at a centerline height of sixty (60) feet will have upon the exterior of the South Congregational Church by compromising the historic integrity of a building included on the National Register of Historic Places, the Planning Board finds that the proposed use is not of "an appropriate scale and function" to be considered as a use in the DCPC.
11. The Planning Board acknowledges that federal limitations preclude it from regulating the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions.
12. The predicted composite coverage map showing the current coverage for all frequencies indicates that "outdoor" and "in-vehicle" signal levels are adequate, while "in-building residential" signal levels are adequate in a majority, but not all, of the targeted "problem area" as identified by T-Mobile as the "search Ring" shown on the exhibit entitled "Search Ring Polygon on Google Earth". The area encompassing Craigville Beach, a popular tourist destination, is shown as having adequate "in-building residential" coverage.
13. The "problem area" as identified by T-Mobile as the "Search Ring" shown on the exhibit entitled "Search Ring Polygon on Google Earth", an area identified by "T-Mobile's radio frequency experts" as "an area within which a wireless communications installation is required to provide coverage to a significant gap in its coverage network." This area is predominately single-family residential in nature. Only an estimated 3% of properties within the Search Ring have a commercial land use. The Applicant has identified "in building commercial" level coverage as "sub-optimal", but this level of coverage does not reflect the predominant land use in the area – which is residential, and which the above-reference map shows has adequate "in-building residential" coverage.
14. The Centerville-Osterville Marstons Mills water tower located at 345 Old Stage Road was identified as a possible alternative location for an antenna installation. The water tower is located at a higher sea level elevation than the Congregational Church, 58 feet versus 47 feet (NAVD88) respectively and currently contains multiple antenna installations and appurtenant structures. T-Mobile testified that an antenna installation on this tower would be outside of the identified "Search Ring" and would not provide "optimal" coverage within the identified "problem area" but no evidence was submitted to the record identifying the level of coverage that would result from an installation at the water tower location.
15. T-Mobile indicated that they recently acquired a 600 band license that is in the process of being deployed. The impact of this acquisition and deployment on coverage levels in the subject area have not been identified or accounted for when considering the need for the installation at 565 South Main Street.



16. T-Mobile represented that it explored other locations and determined that either none were superior to the proposed location or that, if potentially superior, it would be impossible to secure permission from the owners to install the proposed equipment in such locations. With respect to the latter group of potential locations, T-Mobile representatives offered no factual basis or evidence to support the conclusion that they had even contacted such property owners or that they had attempted to initiate contract negotiations for this purpose. The Board therefore finds that T-Mobile has not proven that it has no other equally viable and technically equivalent or superior location at which to install its equipment.
17. Based upon these findings, the Planning Board cannot recommend the execution of the Regulatory Agreement.

**Chair Mary Barry entertains a motion, moved by Patrick Foran, Regulatory Agreement No. 2019-01 is denied per the Findings as presented, seconded by Jeff Swartz, so voted unanimously.**

**Chair Mary Barry entertains a motion to reject the proposed development agreement, motion made by Fred LaSelva to reject in total the regulatory agreement as proposed by T-Mobile, seconded by Jeff Swartz, so voted unanimously.**

**Special Permits:**

**Special Permit No. 2019-01** – 0 Engine House Rd., Hyannis, Map 328 Parcel 241 - R.F. & R.M., LLP seeks a modification to Special Permit No. 2016-03, which permitted a pay-to-park parking lot in the Well Protection Overlay District under Section 240-24.1.9.B.(1) of the Zoning Ordinance. Petition No. 2019-01 has been submitted to reconfigure the approved parking lot in connection with a plan to expand the parking lot onto a neighboring lot at 9 Engine House Road. - *Copy of staff report, application, plans and associated documents enclosed.*

**Special Permit No. 2019-02** – 9 Engine House Rd., Hyannis, Map 328 Parcel 204 - Hyannis Harbor Tours, Inc. seeks a Special under Section 240-24.1.9.B.(1) for a pay-to-park parking lot with 117 spaces within the WP Overlay District which includes placement of curb stops, fencing and signage. The Petition No. 2019-02 seeks to expand an existing parking lot at 0 Engine House Road, originally permitted through Special Permit 2016-03 and proposed for modification through a separate application. - *Copy of staff report, application, plans and associated documents enclosed.*

**Both Applications:**

**Chair Mary Barry entertains a motion to open the Public Hearing for both of these Special Permit applications 2019-01 and 2019-02, moved by Jeff Swartz, seconded by Patrick Foran, so voted unanimously.**

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

Attorney Dan Creedon in attendance.

Special Permit No. 2019-02 is done first:

Marty Riley, representing Hy Line Cruises in attendance. This was created this way due to the fact that they had leased from Cape Cod Regional Transit Authority (CCRTA) an adjacent lot, and they needed that space back for parking. They have sought out 9 Engine House Rd. for this.

Attorney Creedon gives an explanation how the lot will be used. Also in a WP district which is why it requires a review for a Permit. They are proposing a new lot to the west of the end to the back of the lot, 112 spaces 9 x 20, no subcompact spaces, new fencing to separate leased area, curb stop, lighting, cannot do internal landscaping due to the use. New drainage structures to increase the capacity re storm water flow. 240 21. zoning ordinance, in the Transportation (TD) 240 21.1 a, b, c and d. General 240 24.1 12 e1, refers to staff report, Exhibit G. Previously they were going to do something with CCRTA, but now this applicant will not be doing. The Beards will continue to use the front. Improve pedestrian traffic at the harbor. Provide for travel demand management. This is a choke point and will alleviate a lot of these issues. Modification for the westerly portion from 117 to 112 to allow for access for public and emergency vehicles. Want to operate these two lots together. Reconfigure the layout. Modification to 2016-03 – to accommodate Special Permit at 9 Engine House Rd., Please consider in this order.

Fred LaSelva asks if this will alleviate the Ocean St. congestion. Any mitigation being offered regarding the traffic due to the lots that are there, when full they will create a lot of traffic.

Attorney Creedon replies that people will drive to the transportation and take a shuttle to the harbor/Ocean St.

Jeff Swartz asks if maybe put some signage so public knows where to go. Take into consideration the other vehicles on Ocean/Harbor, ubers, cabs, boats, loading and unloading. Do we have sign off regarding Fire/Safety apparatus?

Attorney Creedon replies yes.

Elizabeth Jenkins interjects that Planning & Development has been looking at the area in a very detailed way/streamline the travel in the area in cooperation with Hy-Line to implement/help with conflicts – Bismore Park area.

Marty Riley confirms that they have been working on this with staff.

Steven Costello asks will it be fenced in completely? Is there a way for shuttles to take on other people not just ferry customers/people?

Attorney Creedon replies, yes, fenced on 3 sides and proposing to add a split rail fence.

Marty Riley answers that they are working with CCRTA re general public. General public is already served by the CCRTA.

#### **Chair Mary Barry asks for Public Comment**

Felicia Penn in attendance, she refers to her letter, Exhibit H. She refers to the Staff Report of the 2016 -003 Special Permit as read into record, see Exhibit H; "These lots, once established, act as a strong economic disincentive to property redevelopment and contribute little to the vibrancy of downtown or to the year-round economy." This was written by staff. That statement indicates that this usage is detrimental to the public good and does not fulfill the intent of the zoning ordinances. The CCRTA has been working since 2012 for parking here. There is no reduction in the parking at the harbor. If spaces not being relocated than statements in no. 7 and 8 of the Staff Report are not correct, see Exhibit G, statements no. 6, 7 and 8 on pg. 3, asks to consider a time limit for this Special Permit, temporary. She suggests adding a no. 13 to pg. 5, that would state doing a temporary Special Permit.

Attorney Creedon replies that he does not know of any temporary limited time for a Special Permit. This is the transportation area for parking. We are not eliminating spaces, we are taking away congestion re the demand here. This does not preclude further redevelopment. CCRTA can plan for redesigning of their own, they don't own these properties on Engine House Rd., or the property on Iyannough Rd.



Marty Riley states that Hy Line has worked with the Town and CCRTA amicably on any plans/parking. We would request for a permanent permit (Special Permit). This area is properly zoned for this.

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

Jeff Swartz asks how many extra buses, shuttle systems, projected revenue.

Marty Riley replies, possibly four shuttles, states that it has been positive and costly, doesn't know exact amount of revenue, they pay for permits for parking.

Chair Mary Barry confirms that no time least/temp special permit was put in place in 2016 – Elizabeth Jenkins confirms, that's correct.

Steven Costello confirms the lease term being five years.

Fred LaSelva clarifies that no revenue goes to the Town, other than permit fees.

Marty Riley states that Hy Line is a private operator, pay federal and state and town taxes. We have a much bigger financial impact picture. The town gets real estate taxes and licensing fees from them and licensing. Nothing comes to the town for the Steamship Authority.

**Chair Mary Barry entertains a motion for the Findings for Special Permit 2019-02, seconded by Steven Costello, Fred LaSelva disagrees with the Findings – this is an economic disincentive – should have more revenue**

**Vote: Mary Barry, Steven Costello, Jeff Swartz, Patrick Foran and Walter Watson – Yes.**

**Fred LaSelva – No. The Motion passes 5 to 1.**

1. Hyannis Harbor Tours, Inc. is seeking a Special Permit to allow a pay-to-park public parking facility for ferry-related and general parking at 9 Engine House Road, Hyannis. This parking facility will expand an existing facility located at 0 Engine House Road.
2. The Subject property is addressed 9 Engine House Road, Hyannis Map 328, Parcel 204, a 1.57 acre lot located in the Transportation Hub District (TD) and Well Protection Overlay District (WP).
3. The request to operate a paid parking lot falls within a category specifically excepted in the ordinance for the granting of a special permit; the applicant seeks a Special Permit under Section 240-24.1.9.B. (1) for a pay to park parking facility within the WP Overlay District.
4. The revised plan has been reviewed and administratively approved by the Site Plan Review Committee under an approval dated February 7, 2019.
5. The property at 9 Engine House Road is owned by Andrew J. & Gary Beard, who have supplied authorization for Hyannis Harbor Tours, Inc. to file an application for use of the property as a Pay to Park Lot.
6. After an evaluation of the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a detriment to the public good or the neighborhood affected.
7. The proposal meets the special permit granting criteria of 240-24.1.2 E (1) (b) and (f) as the proposed parking facility contributes to travel demand management by providing shuttle service that directs vehicular traffic away from Hyannis Harbor.
8. The proposal is consistent with Goal 6 of the Downtown Hyannis Design and Infrastructure Plan in that it promotes traffic reduction and alternate transportation modes in the vicinity of Hyannis Harbor.

**Chair Mary Barry entertains a motion for the Findings as presented for 2019-01, moved by Jeff Swartz, seconded by Patrick Foran;**

1. R.F. & R.M., LLP is seeking to modify Special Permit No. 2016-03 to permit a reconfiguration of the existing parking space layout.
2. The Subject property is addressed 0 Engine House Road, Hyannis Map 328, Parcel 241, a 58,569 square foot lot located in the Transportation Hub District (TD) and Well Protection Overlay District (WP). This Special Permit is granted for the western portion of the lot only.
3. The request to operate a paid parking lot falls within a category specifically excepted in the ordinance for the granting of a special permit; the applicant seeks to modify a Special Permit issued under Section 240-24.1.9.B. (1) for a pay to park parking facility within the WP Overlay District.
4. The revised plan has been reviewed and administratively approved by the Site Plan Review Committee under an approval dated February 7, 2019.
5. The Special Permit application is being requested based on a proposed expansion of parking onto an adjacent lot, which is the subject of a separate application.
6. After an evaluation of the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a detriment to the public good or the neighborhood affected.
7. The proposal meets the special permit granting criteria of 240-24.1.2 E (1) (b) and (f) as the proposed parking facility contributes to travel demand management by providing shuttle service that directs vehicular traffic away from Hyannis Harbor.
8. The proposal is consistent with Goal 6 of the Downtown Hyannis Design and Infrastructure Plan in that it promotes traffic reduction and alternate transportation modes in the vicinity of Hyannis Harbor.

**Chair Mary Barry entertains a motion to approve the Findings, moved by Jeff Swartz, seconded by Patrick Foran**

**Vote: Mary Barry, Steven Costello, Jeff Swartz, Patrick Foran and Walter Watson – Yes.**

**Fred LaSelva – No. The Motion passes 5 to 1.**

Walter Watson replies/counter to Fred LaSelva, this is a benefit for additional parking and there is a huge need for, other tax revenue would come of it.

Steven Costello comments – Hy Line is a big employer here and a big contributor in general.

**Regulatory Agreements:**

**Regulatory Agreement No. 2019-02** – 268 Stevens Street, Hyannis, Massachusetts, Map 308 Parcel 017 - Laham Management & Leasing, Inc. seeks to enter into a Regulatory Agreement with the Town of Barnstable to develop the former site of an automobile dealership into a carwash with two residential apartments for employees and office space on the second floor. The Regulatory Agreement seeks waivers from the Zoning Ordinance, specifically Section 240-24.1.6 OM Office/Multi-family to allow for a “carwash” use in the OM Zoning District. A carwash is not a permitted use in the OM Zoning District. - *Copy of staff report, application, plans and associated documents enclosed.*

**Chair Mary Barry entertains a motion to open the public hearing, moved by Jeff Swartz, so voted unanimously.**

Attorney Micheal Ford in attendance for the applicant. He gives a history of the site. He refers to the site plan, Exhibit I. Site plan letter filed with the application. Car washes are prohibited from the other areas that the Applicant has existing car dealerships.

Joel Laham shows a rendering, Exhibit J, new rendering with Stevens St. blocked off.



Attorney Ford states that they have a traffic memo. DPW has not had a chance to submit comments yet. There are some things that can be done for traffic mitigation. They are prepared to negotiate with issues regarding safety and traffic, they are willing to work with neighbors as well.

Joel Laham states that he has 150 employees, they pay many fees. They have quadrupled the tax base. They want to work with the community. They will reach out to everyone/neighbors.

**Chair Mary Barry entertains a motion to continue to March 25, 2019, meeting, moved by Steven Costello, seconded by Patrick Foran, so voted unanimously.**

**Correspondence:**

Chapter 91 and 401 Notice re Vineyard Wind LLC – February 20, 2019

Chapter 91 Notice – 150 East Bay Rd., Ost. – February 22, 2019

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

**Future Meetings:** March 11<sup>th</sup> and March 25, 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 10:35 p.m.**

Respectfully Submitted

  
By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on



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** – Zoning Amendment No. 2019-092 – Map/Par 116/014 306 West Bay Rd. – copy of bldg.. and zoning map.

**Exhibit B** – Reg. Agrmnt 2019-01 T-Mobile – Map/Par 207/053 – copy of map highlighting DCPC area

**Exhibit C** – Reg. Agrmnt 2019-01 T-Mobile – Map/Par 207/053 – Drive Test Data from citizen

**Exhibit D** – Reg. Agrmnt 2019-01 T-Mobile – Map/Par 207/053 – copy of Bldg. Permit

**Exhibit E** – Reg. Agrmnt 2019-01 T-Mobile – Map/Par 207/053 – plot plan highlighted

**Exhibit F** – Reg. Agrmnt 2019-01 T-Mobile – Map/Par 207/053 – Negative Findings read into record

**Exhibit G** – Staff report – SP 2019-01 and 2019-02 R.F. & R.M & Hyannis Harbor Tours Inc.

**Exhibit H** – SP 2019-01 and 2019-02 R.F. & R.M & Hyannis Harbor Tours Inc. – Lt. Felicia Penn

**Exhibit I** – Reg. Agrmnt 2019-02 – Laham Management – copy of site plan layout

**Exhibit J** – Reg. Agrmnt 2019-02 – Laham Management – copy of updated rendering/color