



Town of Barnstable Planning Board



www.town.barnstable.ma.us/PlanningBoard

Board Members
Steven Costello – Chair Stephen Robichaud – Vice Chair Mary Barry - Clerk Jeffrey Swartz Robert Twiss Michael Mecnas

Mathew Levesque – Town Council Liaison
Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director
Kaitlyn Maldonado, Assistant Director
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

BARNSTABLE TOWN CLERK

2021 AUG 12 #1201

Town of Barnstable PLANNING BOARD Minutes July 26, 2021

Steven Costello – Chairman	Present
Stephen Robichaud – Vice Chairman	Present
Marry Barry – Clerk	Present
Jeffrey Swartz	Present
Robert Twiss	Present
Michael Mecnas	Present

Also in attendance via remote participation were Elizabeth Jenkins, Director, Kaitlyn Maldonado, Assistant Director, and Karen Herrand, Principal Assistant, Planning & Development Dept.

The Planning Board’s Public Hearing will be held at 7:00 p.m. by remote participation methods.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/99019535880>

Phone: 888 475 4499 US Toll-free

Meeting ID: 990 1953 5880

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting Karen.herrand@town.barnstable.ma.us or calling 508-862-4064.

Call to Order: Introduction of Board Members and Staff Members

Attendance Roll Call:

Steven Costello
Stephen Robichaud
Marry Barry
Jeff Swartz
Bob Twiss
Michael Mecnas

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.

Public Comment

Chair Steven Costello opens up Public Comment. None.

Approval Not Required Plans

The Robert Baker Estate and Barbara M. LaFlam have submitted an Approval Not Required plan entitled: "Plan of Land at #830 Wakeby Road, Marstons Mills, Barnstable MA, prepared for Barbara M. LaFlam, dated July 8, 2021" prepared and stamped by Daniel A. Ojala, PLS of Down Cape Engineering, Inc. (Majority of Full Board)

Dan Ojala of DownCape Engineering in attendance. He gives an explanation, simple division, large tract of land. Close to Mashpee, Barnstable and Sandwich town lines. Cape Cod Commission (CCC) - monopole, and cell phone tower put up at this site, went to Zoning Board of Appeals (ZBA). It is under agreement with Barnstable Land Trust (BLT). Some easements to get in and out to the tower/exists and buffer, all within lot 1. Wakeby road is described as ancient way, but is open to the public for use as public way. Existing prior to subdivision control law. Both lots have adequate frontage on the way, suitable grades and access.

Jeff Swartz asks about the lot lines regarding a cell tower and if more space needed.

Dan Ojala replies, not the purview for this board, but not creating a zoning violation, was noted in the Decision that placing this would lose some, but no regulations on it. Has to pass an appraisal and is a very dividable area. Wanted an extra buffer and that is fully created.

Chair Steven Costello entertains a motion to approve/endorse, moved by Bob Twiss to endorse the land division plan entitled "Plan of Land at #830 Wakeby Road, Marstons Mills, Barnstable MA" prepared and stamped by Daniel A. Ojala, P.L.S. of Down Cape Engineering, Inc. dated July 8, 2021, and revised on July 26, 2021, as an Approval Not Required Plan, seconded by Marry Barry,

Roll Call Vote:

Stephen Robichaud - aye
Mary Barry - aye
Jeff Swartz - aye
Bob Twiss - aye
Michael Mecnas - aye

Special Permits

Standard Holdings, LLC, seeks to amend Special Permit No. 2020-03, issued pursuant to Section 240-16.1 C(1), to modify condition 6(a)(iii) to require that the affordable housing Regulatory Agreement be

recorded at the Barnstable County Registry of Deeds prior to the issuance of an occupancy permit, instead of prior to the issuance of a building permit.
(Public Hearing) (2/3 Majority Full Board)

Chair Steven Costello is recusing himself from this matter. Stephen Robichaud, Vice Chair will sit in for him.

Attorney David Lawler in attendance. He gives an explanation of the request. This is just a simple correction to be done to the Decision document. In the original Decision it provided certain things to take place prior to a building permit and should have been prior to an occupancy permit. Cannot take place until occupancy anyway, simple wording change from building permit to occupancy permit.

Elizabeth Jenkins - no comments and are supportive of this request.

Vice Chair Stephen Robichaud asks for any public comment. None.

Motion made by Mary Barry to open the Public Hearing, seconded by Jeff Swartz,

Roll Call Vote:

Mary Barry - aye

Jeff Swartz - aye

Stephen Robichaud – aye

Bob Twiss - aye

Michael Mecnas - aye

Public hearing is open.

Motion made by Mary Barry to close the Public Hearing, seconded by Jeff Swartz,

Roll Call Vote:

Michael Mecnas - aye

Bob Twiss - aye

Jeff Swartz - aye

Mary Barry - aye

Stephen Robichaud - aye

Motion made by Stephen Robichaud, Special Permit No. 2020-03, issued to Standard Holdings, LLC is hereby modified by modifying Condition No. 6(a)(iii) to delete the language that requires that the affordable housing Regulatory Agreement and Declaration of Restrictive Covenants to be recorded prior to the issuance of a building permit, and replace said language requiring it to be recorded prior to issuance of an occupancy permit, as follows:

The Developer shall record a Regulatory Agreement and Declaration of Restrictive Covenants, in form and content approved by the Town Attorney at Dept. of Housing and Community Development assuring that the affordable units will remain dedicated as such in perpetuity and that they are protected in the event of a foreclosure from loss of their affordable status. Said Agreements shall be recorded at the Barnstable County Registry of Deeds prior to the issue of any occupancy permits.

All other conditions of Special Permit No. 2020-03 shall remain in full force and effect. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit for the proposed development, seconded by Mary Barry,

Roll Call Vote:

Michael Mecnas - aye

Bob Twiss - aye
Jeff Swartz - aye
Mary Barry - aye
Stephen Robichaud - aye

Chair Steven Costello returns to the meeting.

Subdivisions

A modification application has been submitted by Samuel Traywick. The request is to amend the approved subdivision plan to modify the roadway construction including the width and profile of Wendy Way; request a waiver to allow for a gravel surface and to approve the revised configuration of the way proposed to incorporate a turning tee. The subject properties are shown on Assessors Map 124 Parcel 016-001. The plan for this subdivision modification is entitled "Subdivision #646A Road Profile Plan of Wendy Way Marstons Mills, MA Prepared for Samuel Traywick" prepared by Down Cape Engineering, Inc., dated June 4, 2021. (Public Hearing)(Majority of Full Board)

Jeff Swartz recuses himself, he has a conflict.

Dan Ojala of DownCape Engineering, Inc. in attendance. He gives an explanation. Roadway surface change. Owners would like to make a glorified driveway to house in the back, instead of cul de sac go to gravel with a turning tee, generally allowed if under 5 houses. 16 ft. width. The tee will be available for turning. Make a loop for proposed house owner. Good sight distances. Note that the definitive plan, older plan, does have one on record, 435 013 Plan/Book. Shows Wendy Way as well, lots 7 and 6. Sent revised drainage calculations to Department of Public Works (DPW). Maintenance would be a Form S, so Town not responsible for road. Reference to Condition 10 .

Elizabeth Jenkins, condition 10 intent to limit acces to lot 7A, based on proximity of driveway to Wendy Way. Condition 13 should probably have a modification/change in the language.

Chair Steven Costello entertains a motion to open the Public Hearing, moved by Mary Barry, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye
Stephen Robichaud - aye
Mary Barry - aye
Bob Twiss - aye
Michael Mecenias - aye

Chair asks for any public comment. None.

Chair Steven Costello entertains a motion to close the Public Hearing, moved by Mary Barry, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye
Mary Barry - aye
Bob Twiss - aye
Stephen Robichaud - aye
Michael Mecenias - aye

Mary Barry asks if the plan was for access to Route 28 because of a safety issue? Turning in and out of Wendy Way – on Town’s request to not have access?

Dan Ojala replies, this is Old Falmouth Rd., not Route 28, this plan refers to it. The loop seems like a good idea.

Stephen Robichaud, refers to correspondence between DPW, the height of the tee, mentioned further from the main road? Why kept where it is?

Dan O'jala replies goes down a bit, need 6 ft. of fill, to fill all for the tee, better off to go into a residential turning tee, not to have a big area/fill, it's only for one house, basically like a driveway. Overriding concern was to have the turning radius, some fill will be used around the house and not to have the elevated tee.

Kate Maldonado, Assistant Director refers to Staff Report, DPW did say that they are confident with the revised plan, didn't have any comments with regard to the tee. Fire Dept. also is ok with the submission.

Steven Costello Wendy Way is not a public road, what happens in the future if paved, does that become expense of the owners? Is that how that works?

Dan Ojala, yes, we are asking for a reduced width, the procedure would be to maybe come back to the Planning board and pave cul de sac, but it's private road and Town doesn't do any more anyway. Private roads are very common.

Chair Steven Costello entertains a motion, moved by Mary Barry - To approve the proposed modification to Subdivision #646A as shown on the plans entitled: "Subdivision #646A Road Profile Plan of Wendy Way Marstons Mills, MA" prepared for Samuel Traywick dated June 4, 2021 and revised July 20, 2021 stamped by Daniel A. Ojala, P.L.S. and subject to the suggested conditions.

- 1) The development shall be subject to all applicable Subdivision Rules and Regulations, except those waived by the Board as stated herein.**
- 2) Approval is subject to approved performance guarantees per 801-24.J, including:**
 - a) Lot 8 shall be retained under covenant (as recorded in Book 5787, Page 167), whereby such improvements as shown on the definitive plan shall be provided to serve any lot before such lot may be built upon or conveyed, except as specified by Chapter 41, Sec. 81U of Massachusetts General Laws.**
 - b) The Applicant shall submit a Form S for both lots in the subdivision, requiring the Developer and successors in title to be responsible for all maintenance (including snow removal) and repair to Wendy Way as shown on the plan entitled "Subdivision #646A Road Profile Plan of Wendy Way Marstons Mills, MA" prepared for Samuel Traywick dated June 4, 2021 and revised July 20, 2021 stamped by Daniel A. Ojala, P.L.S.**
 - c) Prior to endorsement of approval, the applicant shall submit a returnable check for \$1,000 to ensure recordation for the development agreement. Such check shall be held to ensure recordation at the Barnstable Registry of Deeds a copy of this decision notice when final approval is given by the Town Clerk, the endorsed subdivision plan, the signed Development Agreement, the covenants, and an executed Form S.**
- 3) Prior to the endorsement of the subdivision plan, the Applicant shall complete and endorse a Development Agreement with the Planning Board for completion of the Subdivision as shown on the above-referenced plans.**
- 4) All development of subdivision lots shall fully conform to all Board of Health requirements, including, but not limited to those for percolation tests, provision of maximum groundwater**

elevations. Each proposed septic system must be designed and constructed to conform to 310 CMR 15.000, the State Environmental Code, Title V, and the Town of Barnstable Rules and Regulations. Each and every dwelling constructed within this subdivision shall be serviced by public water.

- a) All tree stumps, brush and building debris removed when clearing lots or roads must be disposed of at a licensed solid waste disposal facility. Chipping brush and tree stumps is an acceptable alternative. Burial on site is prohibited.
- 5) Any damage to the right-of-way and its utilities caused by the construction of Wendy Way shall be the responsibility of the Applicant and/or representative to repair and restore the road, per Department of Public Works standards and pursuant to their directions, to the condition that existed before construction of Wendy Way.
- 6) The proposed connection and extension of the water system, including any proposed installation of hydrants, must be approved by Centerville-Osterville-Marstons Mills (COMM) Water Department prior to installation. Easements and access right for all public utilities will be granted.
- 7) In accordance with Chapter 801-4(B), no clearing of vegetation or grading for the development of ways or building sites shall commence until an approved and endorsed definitive plan has been recorded and evidence of recordation returned to the Planning Board office. This shall not apply to limited clearing for the purpose of surveying. Selective removal of trees for the purpose of soil testing may be undertaken with written permission of the Planning Board.
- 8) Upon satisfactory completion of the roadway, installation of all utilities and the setting of all bounds, all in accordance with the Subdivision Rules and Regulations, the Applicant shall submit as-built plans for the subdivision and request a release of Lot 8 from Covenant and the issuance of a Certificate of Completion to close out the Subdivision.
- 9) In accordance with the Subdivision Regulations, the owners of Lots 7A and 8 shall be responsible for the maintenance and repair of the street. Prior to the issuance of any building permit for Lot 7A or 8, the Applicant shall complete and endorse a Declaration of Trust creating a Homeowners Association or another maintenance agreement in a form and content approved by the Town Attorney, for the continued maintenance of the roadway, drainage facilities, and common areas. Also required shall be an operations and maintenance plan for the drainage structures and swales, to be approved by the Department of Public Works.
- 10) Lot 7A shall be accessed from Wendy Way. There shall be no access to this lot from Old Falmouth Road.
- 11) Development of the subdivision shall conform to the revised plans, documents and details, including the "Subdivision #646A Road Profile Plan of Wendy Way Marstons Mills, MA" prepared for Samuel Traywick dated June 4, 2021 and revised July 20, 2021 stamped by Daniel A. Ojala, P.L.S.; revised Drainage Calculations dated June 4, 2021; and the revised Drainage Area Sketch Plan prepared for Samuel Traywick dated June 15, 2021 stamped by Daniel A. Ojala, P.L.S.
- 12) The Development Agreement and Form S shall be recorded at the Barnstable County Registry of Deeds together with the Definitive Plan Modification. A copy of the recorded documents shall be returned to the Planning Board. Upon evidence of the recordation of all the documents cited above, the \$1,000.00 check required in Condition 2 shall be returned to the Applicant. If

no evidence or insufficient evidence is provided, the check shall be cashed to cover the cost of recording the documents.

- 13) This subdivision approval shall be in effect upon recordation of this decision notice, its referenced definitive subdivision plan, and all documents cited in the conditions herein with the Registry of Deeds and shall expire eight (8) years from the date of endorsement of the subdivision plan by the Planning Board. This subdivision is subject to all applicable Subdivision Regulations except as waived herein.

Dan Ojala, Item No. 7 – suggests striking the words definitive and putting in place, Development Agreement and a Form S, because definitive plan is already recorded. – just have Development Agreement and Form S.

Elizabeth Jenkins states that both 7 and 13 do reference a recorded plan – this is a modification.

Dan Ojala, maybe reference the plan on file - on 7 just say until an approved Development Agreement and a Form S.

Elizabeth Jenkins replies to adopt Subdivision rules and regulations wording – to have changes on the record to make sure they are carried through and attached to the definitive plan. It is a road modification plan.

Dan O’jala states he does not have anything suitable for a definitive plan right now. Changes to number 10?

Elizabeth Jenkins clarifies that this is a draft decision – Planning Board comes back and endorses the plan once have the Development Agreement. Would work out all the forms and any others, send back to Planning Board for endorsement and all documents needed. Will change definitive plan language to road modification plan on 7 and 13.

Chair Steven Costello comments that it seems safer, cleaner to have a singular drive?

Motion on the table is seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecenias - aye

Staff Updates

- Update on Accessory Dwelling Units (ADUs)

Elizabeth Jenkins gives an update, Town Council (TC) had a public hearing and has allowed ADU to single family homes town wide. Two amendments, first is a clean up amendment to allow both apartments and ADU’s on a lot at the same time. Second is to rental revision to modify it to allow only one unit to be rented at a time. Effective Aug. 15, 2021.

- Downtown Hyannis Zoning Revision & Virtual Community Meeting to be held on Monday August 2nd at 6:00 PM

Exhibit A. Kate Maldonado - presentation for proposed zoning revision – Downtown Hyannis Zoning. Hosting virtual community meeting Monday, August 2, 2021, at 6 p.m. Have a webpage for Downtown Hyannis Zoning online. If click on can find more information and a draft of the Hyannis Downtown zoning revision – webpage. Staff will provide virtual office hours, August 4th and August 9th. The meeting will be recorded. Purpose of this Amendment – to encourage housing/mixed use. This will allow goals that are suggested in Local Comprehensive Plan (LCP). Input from the Town on this. Study Area – Hyannis Zoning Districts. Transportation and Commercial Hub. Can support greater density, jobs/housing. Livable, walkable. Form- Based Code Techniques. Parking behind the buildings. Form of Buildings. Modern Zoning. Consolidated versions. Summary Chart allows for more efficient review and enforcement. Would like to update all zoning with these summary tables. This will be discussed at the August 2, 2021, meeting.

- Board Training Updates

Elizabeth Jenkins – note that we have held past community meetings on zoning amendments, in the past. This time we didn't take this approach, but strongly encourage the community meeting for information.

Elizabeth Jenkins – Board Training – we have a lot of new members, saw some turnover that our Staff serves. Provide written resources. Guide to holding public hearing, voting requirements guide, outlines all potential votes and what requirements are, membership and forum. This is first of written materials, we hope to have video training as well. Planning Board will be place where we start this. Responsibilities of the Planning Board and understanding of. Will be providing those out over the course of the year.

Matters Not Reasonably Anticipated by the Chair

Correspondence

Chapter 91 Notice – 218 Long Beach Rd., Centerville – Packard – maintain pier

Approval of Minutes

July 12, 2021, draft minutes

Chair Steven Costello entertains a motion to approve the draft minutes of July 12, 2021, moved by Mary Barry, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecnas - aye

Stephen Robichaud asks about the Downtown Zoning. Will there be any focus on culture of the area? Part of discussion?

Kate Maldonado replies, maybe, but this really focuses on the form and placement of the buildings. Trying to incorporate with the use of a grant that they have applied for.

Stephen Robichaud replies that would be great to dovetail that with the buildings.

Mary Barry – Board training materials are very good, a lot of information, graphics well done.

Future Meetings: August 9 and 23, 2021, @ 7:00 p.m.

Adjournment

Chair Steven Costello entertains a motion to adjourn, moved by Stephen Robichaud, seconded by Bob Twiss,

Roll Call Vote:

Steven Costello - aye

Stephen Robichaud - aye

Mary Barry - aye

Bob Twiss - aye

Michael Mecnas - aye

The meeting adjourned at 8:18 p.m.

Respectfully Submitted

Karen Herrand, Principal Assistant, Planning & Development

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

Exhibit A – Hyannis Downtown Zoning presentation