



Town of Barnstable Zoning Board of Appeals



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Staff Support

Elizabeth Jenkins –Director - elizabeth.jenkins@town.barnstable.ma.us
Anna Brigham – Principal Planner – anna.brigham@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, April 25, 2018

Hearing Room – 2nd Floor – 367 Main Street, Hyannis, MA

Alex Rodolakis - Chair	Present
David Hirsch – Vice Chair	Present
Herbert Bodensiek - Clerk	Absent
Jacob Dewey – Regular Member	Absent
Regular Member	Vacant
Paul Pinard – Associate Member	Present
Kyle Evancoe – Associate Member	Present
Todd Walantis – Associate Member	Present
Mark Hansen – Associate Member	Present

Also present were Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant.

As a quorum has been met, Alex opens the hearing at 7:01 pm.

Call to Order

Introduction of Board Members- All members present introduce themselves.

Alex reads the following with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 an in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Alex reads the following into the record:

Old Business

7:00 PM Appeal No. 2018-015 Amended

JNJ Holdings, LLC

JNJ Holdings, LLC have applied for a Special Permit under Section 240-25 HB Conditional Use, Section 240-35 Well Protection Overlay District, Section 240-53 Landscape Requirements for Parking Lots and Setbacks, Section 240-54 Location of parking lot in relationship to building, and Section 240-57 Circumstances Warranting Reduction of Requirements. The Applicant is proposing to demolish the existing structure, remove the underground tanks, and construct quick change oil and auto repair facility building of 6,324 square feet, nine service bays, with paving and landscaping. There will be three bays for oil changing, one bay for alignments, one bay for inspections, and four bays for auto repair. The property is located at 326 West Main Street, Hyannis, MA as shown on Assessors Map 269 Parcel 159. It is located in the Highway Business (HB) and Residence B (RB) Zoning Districts and Well Protection (WP) Overlay District. **This Appeal was continued for re-advertising.**

Members assigned: Alex Rodolakis, David Hirsch, Kyle Evancoe, Paul Pinard,

Attorney Ben Losordo requests a continuance to May 9, 2018 at 7:00 pm as this project is in Site Plan Review.

CONTINUED TO MAY 9, 2018 AT 7:00 PM

Alex reads the following into the record:

New Business

7:01 PM Appeal No. 2018-021

Thomas, Red Maple Trust

Lance D. Thomas, Trustee of Red Maple Trust, has applied for a Special Permit in accordance with Section 240-131. 4. D. (2) – Craigville Beach District Use Regulations - Change, Expansion, Alteration by Special Permit. The applicant is proposing to demolish the existing 666 square foot garage and construct a new 660 square foot garage in the easterly portion of the property. The property is located at 1248 Craigville Beach Road, Centerville, MA as shown on Assessor’s Map 206 as Parcel 082. It is located in the Craigville Beach District (CBD) and the Centerville River North Bank Neighborhood (CRNB) Zoning Districts.

Members assigned: Alex Rodolakis, David Hirsch, Paul Pinard, Kyle Evancoe, Todd Walantis

Representative: Ben Losordo , Esq. Attorney Losordo shows a picture of the garage and says it is about 13 feet high. This will be replaced by a smaller structure by 660 square feet and moving the garage to make it more conforming. They will raise the height and will qualify for voluntary demo but to hold the 12 over 12 it was necessary to raise the roof. It will not be more detrimental, it was approved at Barnstable Historical Commission (BHC) no increase in floor area ratio, improves the views for the neighbors. No increase in lot coverage of Floor Area Ratio (FAR) and enhancing the view and requests that this be granted.

Mark Hansen asks if there will be anything above the garage. Attorney Losordo there will be no floor area and the roof will just be for looks.

Alex asks for any letters of support. No letters in opposition or support. Alex asks if there isn’t a second floor, would they need to go that high on the roof pitch. Attorney Losordo states that the historic district likes the 12 over 12 pitch. He thinks it is only for aesthetics. Todd Walantis asks how far from the front. Losordo says that it is moving forward towards the street and away from the marsh.

Alex would have liked a letter of support from the neighbor(s).

Alex asks for public comment. No one speaks.

Board deliberates. Todd thinks it s better. Kyle wants to make sure that the area above the garage is used more intense but thinks it improves the look. Alex would like to amend Condition #3 to have no more structures without prior approval. Losordo is agreeable and is not a problem.

Paul makes findings:

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

Staff has outlined all of the findings required by the DCPC ordinance. Those findings which are not applicable to the project are demarcated with a “■” symbol and noted as not applicable (n/a).

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit:**
Section 240-131.4(D)(2) allows for an alteration of an existing lawfully established structure in existence as of January 19, 2011 with a special permit from the Board.
- 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 the neighborhood affected.**

Further, §240-131.4 of the Craigville Beach DCPC ordinance states that in granting a special permit, the Board shall find that:

- The proposed alteration/expansions are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure.**

Comply with § 240-131.1, Purposes and intent:

The purpose and intent of §§ 240-131 through 240-131.8 are to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 09-10 to ensure that development and redevelopment meets the following standards:

- Contributes to and respects the character and historic development patterns of the area and minimizes inconsistent redevelopment impacts to the historic and community character resources in this area.**

- Protects and preserves scenic views and vistas and ways to the water.
- Protects and improves natural resources, including but not limited to the barrier beach and groundwater and coastal water quality and minimizes development and redevelopment impacts to the natural resources and ecosystems in this district.
- Protects human life and property from the hazards of periodic flooding.
- Preserves the natural flood control characteristics and the flood control function of the floodplain.

and with the performance standards and design guidelines for the neighborhood overlay area in which the development is located, in accordance with § 240-131.7, Neighborhood District Overlay regulations, with the exception of the dimensional requirements of § 240-131.7D(1):

General performance standards:

- The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it.
Relief is being requested for the alteration of the structure in accordance with § 240-131.4D.
- The redevelopment complies with the height limitations set forth herein.¹
- Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
- Stormwater management and erosion control for nonresidential uses comply with best management practices through low-impact development or other adaptive management practice - n/a
- Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within. - n/a
- All new non-water-dependent development shall be set back at least 50 feet from the top of the coastal bank resource area. Change, alteration, or expansion of existing structures shall not be sited closer to the top of the coastal bank resource area than the existing development to the maximum extent feasible.
- Existing natural vegetation within the fifty-foot buffer area to salt marsh and undisturbed buffer areas 50 feet landward of the mean high-water mark of coastal water bodies shall be preserved to the maximum extent feasible.
- No direct untreated stormwater discharges shall be permitted into any coastal waters or wetlands, including discharges above or below the mean high water level. Stormwater discharge shall be located and treated the farthest practicable distance from wetlands and water bodies and shall be located a minimum of 50 feet from wetlands or water bodies. n/a

Under Section 240-131.7.G.(3) Centerville River North Bank Neighborhood performance standards. All development and redevelopment shall meet the following standards:

- Tree removal or vista pruning shall not interrupt the tree line as viewed from the south looking northward to the tree line.
- No development or redevelopment shall be permitted within V Zones, except that existing structures may be changed or altered, provided that there is no increase in gross floor area, footprint, or intensity of use (including but not limited to increases in wastewater flow and impervious area) within the V Zone.
- Any activity or development in a V Zone that creates an adverse effect by increasing elevation or velocity of floodwaters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of floodwaters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rests with the applicant and shall require certification by a professional engineer.
- Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member two feet above the BFE in V Zones and one foot above BFE in A Zones. For all new construction and substantial improvements within the V Zones, the space below the lowest floor must either be free of obstruction or constructed with nonsupporting breakaway walls, open wood

¹ BUILDING HEIGHT: The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys cupolas, flagpoles or other similar appurtenances as approved by the Building Commissioner.) (Gable roofs having a slope of 7/12 or greater allowed maximum height; hip and other sloped roofs with a slope of 4/12 or greater are allowed five feet less than the max)

lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.



- Do not entail an increase in gross floor area or footprint for voluntary demolition of a single-family residence.
- Do not exceed 25% of the gross floor area of structures in existence as of July 1, 1989, or do not exceed 10% of the gross floor area of structures in existence as of November 6, 2009.²
The existing gross floor area is 666 square feet and the proposed gross floor area is 660 square feet, a reduction of 6 square feet.
- Do not increase lot coverage over what is allowed under § 240-131.6, Coverage limitations, or by more than 10% over what was existing on November 6, 2009, whichever is greater.
The existing lot coverage 5,995 square feet or 36.00% and the proposed lot coverage is 5,989 or 35.96%.
- Does not increase flood hazards in the neighborhood.
- Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with § 240-131.5, Note 4.
- In V Zones, do not increase south-facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of floodwaters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way. n/a

Vote:

All in favor

Motion to grant the relief being sought is made by Paul Pinard with the following conditions as outlined on Staff Report dated March 16, 2018, 1-4 and adding #5 = full buildout of the lot and no further structures without approval from the board

Conditions

1. Special Permit No. 2018-021 is granted to Lance D. Thomas, Trustee of Red Maple Trust, for the demolition of the existing 666 square foot garage and the construction of a 660 square foot garage approximately 14 feet from the Coastal Bank and 10.4 feet from the side yard setback at 1248 Craigville Beach Road, Centerville pursuant to Section 240-131.4 of the Craigville Beach District.
2. The alterations and expansions shall be constructed in substantial conformance with the site plan entitled "Plan of Land showing proposed garage in Centerville, MA" prepared for Lance Thomas by Terry Warner PLS, dated January 23, 2018 with a last revision date of February 21, 2018 and design plans by A.M. Michniewicz dated February 2018.
3. The above-described alterations shall represent full build-out of the lot. No further alterations shall be permitted without approval from the Board.
4. 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. The rights authorized by this special permit must be exercised within two years, unless extended.
5. This shall be deemed to be full buildout of the lot and no further structures will be allowed without approval from this Board.

Vote:

All in favor

GRANTED WITH CONDITIONS

Alex reads the following into the record:

7:03 PM Appeal No. 2018-025

Kuda

Peter M. Kuda and Wendy J. Kuda, Trustees of the Kuda Family Trust, have applied for a Special Permit pursuant to Section 240-92(B) - Alteration and Expansion of Nonconforming buildings or structures used a single- and two family residences. The petitioners are proposing to construct a 12X12 screened porch which encroaches into the required 20 foot setback for the zoning district in which it is located. The subject property is located at 41 Sixth Avenue, Hyannis, MA as shown on Assessor's Map 246 as Parcel 143. It is located in the Residence B Zoning District.

Members assigned: Alex Rodolakis, David Hirsch, Mark Hansen, Paul Pinard, Kyle Evancoe
Representative: John Kenney, Esq.

² Gross floor area is defined as "the sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

He gives history of the property which they bought in 2017, doing rehab and are looking to add 12 X 12 screened-in porch which would violate the setback. The lot is made up of two lots, Seaside Park. When created there were no dimensional requirements. The house was constructed in 1951 and it did meet setbacks at the time. It is a legal pre-existing nonconforming structure. They are encroaching into the 20 foot setback along Maple Way. This is a corner lot which has frontage on both streets. Renovations will bring it into the current building code. He thinks that the screened-in porch goes along with the flavor of the neighborhood. Property is a 3 bedroom house and will continue to be a 3 bedroom house. The Kudas are renovating the home and putting in new electrical, plumbing, etc. The porch will have a flat slope roof and not gabled. with Attorney Kenney tonight is the builder, Ed Mogan and Company, Inc., who is remodeling the inside, including the electrical and plumbing. Mr. Mogan states that the porch will be a flat sloped roof and not gabled.

Kyle asks if there has been any neighbor comment. Attorney Kenney states that the applicant just recently purchased the property and isn't sure if the applicant has spoken to the neighbors.

Paul Pinard asks how the porch will be situated. Mr. Mogan explains that the porch will face Sixth Avenue and the house faces the corner rather than the street.

They discuss Exhibit A from Kenney's memo (Exhibit A)

Mr. Mogan explains that there is a new septic system. Mark clarifies that it will be only a 3 bedroom septic. Attorney Kenney clarifies that it was recently inspected in November of 2017. Alex confirms that the shed on the plans has been removed.

Alex asks for public comment. No one speaks.

Kyle Evancoe makes findings:

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit:

Section 240-92 allows for the expansion or alteration of a preexisting nonconforming structure used as a single-family residence with a Special Permit.

2. 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 the neighborhood affected.

Section 240-92 requires the Board to find:

3. The proposed expansion of the dwelling will not be substantially more detrimental to the neighborhood than the existing building or structure.

Vote:

All in favor

Kyle makes a motion to grant the relief being requested with the following conditions:

Conditions

1. Special Permit No. 2018-025 is granted to Peter M. and Wendy J. Kuda, Trustees of The Kuda Family Trust, to allow the construction of a 12 foot by 12 foot screened porch with a front yard setback of 16.7 feet. The property is located at 41 Sixth Avenue, Hyannis (Hyannisport), MA.
2. The proposed alterations will be in substantial conformance with the plan entitled "Site Plan of 41 6th Avenue West Hyannisport, MA" prepared for Peter Kuda dated January 10, 2018 and drawn and stamped by Down Cape Engineering Inc.
3. This alteration/construction shall represent full build-out of the lot. No additional increase in building coverage or gross square footage shall be permitted without prior approval of this Board.
4. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be located so as to conform to the required setbacks for the district and screened from neighboring homes and the public right-of-way.
5. This decision shall be recorded at the Barnstable County Registry of Deeds and copies filed with the Zoning Board of Appeals and Building Division. The rights authorized by this special permit must be exercised within two years, unless extended.
6. **The screened-porch shall remain a seasonal porch**

Alex Rodolakis asks Attorney Kenney if he is okay with the Condition that it remains a seasonal porch. Attorney Kenney agrees.

Vote:
All in favor

GRANTED WITH CONDITIONS

Alex recuses himself and leaves the dais. Kyle Evancoe discloses that he has done business in the past with Attorney Mark Boudreau's partner in the past to which there is no objection.

David Hirsch takes over as Chair and reads the following into the record:

7:02 PM Appeal No. 2018-024 Berkery

Andrew M. and Joan W. Berkery have applied for a modification of Special Permit 2014-050, Conditions No. 4 and 7 in order to finish the basement area of the main dwelling for use as a laundry room, bathroom and open bonus room and to construct an outdoor shower. Condition No. 4 requires prior approval from the Board for any expansion in gross square footage or footprint and Condition No. 7 prohibited an outdoor shower. The subject property is located at 49 Lafayette Avenue, Hyannis, MA as shown on Assessor's Map 287 as Parcel 047. It is located in the Residence F-1 Zoning District.

Members assigned: David Hirsch, Paul Pinard, Mark Hansen, Kyle Evancoe, Todd Walantis
Representative: Mark Boudreau, Esq.

Attorney Boudreau requests a continuance to May 9th as one of the neighbors has concerns which they would like to resolve beforehand.

Motion is made by Paul Pinard and seconded by Kyle Evancoe to continue to May 9, 2018 at 7:00 pm

CONTINUED TO MAY 9, 2018 AT 7:00 PM

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Meetings

May 9, 2018, May 23, 2018, June 13, 2018

Adjournment

Motion is made by Paul Pinard and seconded by Kyle Evancoe to adjourn.

Vote:
All in favor