



Town of Barnstable Zoning Board of Appeals



Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
Jacob Dewey – Regular Member Paul Pinard – Regular Member
Todd Walantis – Associate Member Mark Hansen – Associate Member Emanuel Alves – Associate Member
David Bogan – Town Council Liaison

BARNSTABLE TOWN CLERK

2020 NOV 25 AM 10:09

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, October 14, 2020
7:00 PM**

Since a quorum has been met, Alex Rodolakis opens the hearing and reads the following into the record:

The Zoning Board of Appeals Public Hearing will be held by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

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 Zoning Board of Appeals meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Zoning Board of Appeals by utilizing the Zoom link or telephone number and Meeting ID provided below:

Join Zoom Meeting

<https://zoom.us/j/91024014531>

Meeting ID: 910 2401 4531

888 475 4499 US Toll-free
Meeting ID: 910 2401 4531

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to anna.brigham@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Copies of the applications are available for review by calling (508)862-4682 or emailing anna.brigham@town.barnstable.ma.us .

Call to Order

Introduction of Board Members

Roll Call Attendance:

Member	VIA ZOOM	VIA CONFERENCE CALL	ABSENT
Alex Rodolakis - Chair	x		
David Hirsch – Vice Chair	x		
Herb Bodensiek - Clerk			x
Jake Dewey	x		
Paul Pinard	x		
Todd Walantis			x
Mark Hansen			x
Manny Alves	x		
Anna Brigham	x		
Carol Puckett		x	
David Bogan	x		
Doug/Tina Crook	x		
Barbara/Ian Lee	x		

Alex reads the following into the record with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 and 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 - Request for Minor Modification – Comprehensive Permit No. 2005-100

In 2007, Comprehensive Permit No. 2005-100 was granted for Five (5) units of multi-family housing on 2.38 acres. On September 9, 2020, Ms. Joyce, representing the Condo Association, requested a minor modification to the landscape plan. The modifications include:

1. Completion of retaining wall and fencing to the rear of property A1.
2. Completion of plantings in front of each condo building.
3. Beautification of area around "catch basin"/"rain garden" in front of the A1 building down to the sidewalk – Common area – with appropriate plantings and maintenance plan.

Ms. Joyce further explains that her main request from the Board is for the Condo Association to assume responsibility for monitoring architectural, aesthetic and landscaping changes that may occur on the premises.

Continued from September 23, 2020 for input from Building and Health

Members assigned tonight: Alex Rodolakis, David Hirsh, Jake Dewey, Paul Pinard, Manny Alves

Alex states that at the last meeting they requested info from Building Commissioner, Brian Florence, and received a letter dated September 24, 2020 in support of the board granting the modification stating 9 reasons it makes sense, in his view.

Alex recognizes Nancy Joyce, President of the Homeowner’s Association, of 675 Main Street unit B1. He asks members for any discussion. Jake notes that there was a letter also from the Director of the Board of Health, Tom McKean. David Hirsch makes a motion stating that based on the letter from the BC which pinpoints the rationale in items 1-9 to accept this as a minor modification and to grant it. Seconded by Paul Pinard.

Jake asks if they are modifying an existing condition or adding new conditions? David says his motion is that this is minor and does not affect the comprehensive permit.

Manny seconds it.

Roll Call Vote:

Member	AYE	NAY	ABSTAINED
Alex Rodolakis - Chair	x		
David Hirsch – Vice Chair	x		
Herb Bodensiek - Clerk			
Jake Dewey	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen			
Manny Alves	x		

MINOR MODIFICATION GRANTED

Mark Hansen joins the hearing .

Alex reads the following into the record:

New Business

7:01 PM Appeal No. 2020-032 Crook

Douglas and Tina M. Crook have applied for a Special Permit pursuant to Section 240-47.1 – Family Apartments. The Special Permit is required under Section 240-47.1.B (4) as the proposed family apartment will be in a detached existing structure. The Applicants are proposing to reside in the garage apartment while their principal dwelling is being built. Upon completion of their dwelling, the garage apartment would then become a family apartment for their daughter. The subject property is located at 115 Bog Road, Marstons Mills, MA as shown on Assessor’s Map 045 as Parcel 016-005. It is located in the Residence F (RF) Zoning District.

Members assigned tonight: Alex Rodolakis, David Hirsch, Jake Dewey, Paul Pinard, Manny Alves

Representative: Doug and Tina Crook via ZOOM

Doug Crook is here and is looking for this as they have almost completed the accessory apartment and would like to construct the main dwelling. The board clarifies that the main structure is not there as of yet and that the existing structure will be used as a family apartment. Mr. Crook states that he has a daughter that is a senior in college who will be occupying the family apartment and that perhaps, after that, it will be used as an in-law apartment. David Hirsch clarifies that this is a detached family apartment. Manny asks if Mr. Crook is okay with following the requirements for a family apartment. Mr. Crook states that this will be for family members. Jake Dewey questions Condition #3 on the staff report which says that this shall be full buildout. He notes that it would have to be modified because it would prevent the Applicants from constructing the main dwelling. They discuss language for Condition #3: after completion of the main residence and detached family apartment, this shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.

Alex asks for public comment. Mr. Ian Lee from 193 School Street in Marstons Mills is here via ZOOM in support. His parents are also here in support.

Board deliberates.

Alex reiterates with Mr. Crook about the regulations for a family apartment.

Jake Dewey 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 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.**
2. **Site Plan Review is not required for single-family residential dwellings.**
3. **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.**
4. **The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.**
5. **The single-family nature of the property and of the accessory nature of the detached structure are preserved.**

Roll Call Vote:

Member	AYE	NAY	ABSTAINED
Alex Rodolakis - Chair	x		
David Hirsch – Vice Chair	x		
Herb Bodensiek - Clerk			
Jake Dewey	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen			
Manny Alves	x		

Jake makes a motion to grant the relief being sought with the following conditions, 1-6 but modify #3 on staff report dated September 24, 2020:

Conditions

1. Special Permit No. 2020-032 is granted to Douglas and Tina Crook to establish a family apartment in a detached accessory structure at 115 Bog Road, Marstons Mills, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Septic System Design" by BSC Group dated October 15, 2019 with the last revision date of September 16, 2020, and design plans by ERT Architects sheet G.2 undated and sheets A.3 and A.4 last revised May 20, 2020.
3. The proposed development along with the new construction of the main dwelling shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 1. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection

of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.

2. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
3. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
4. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The 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 the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Roll Call Vote:

Member	AYE	NAY	ABSTAINED
Alex Rodolakis - Chair	x		
David Hirsch – Vice Chair	x		
Herb Bodensiek - Clerk			
Jake Dewey	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen			
Manny Alves	x		

Correspondence

The Barnstable Town Council will hold a public hearing on Thursday October 15, 2020 at 7:00 PM to take comment on a proposal to amend the Town Zoning ordinance by revising Chapter 240, Article II, Section 7 by adding certain provisions pertaining to short term rentals.

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

October 28, 2020, November 18, 2020, and December 9, 2020

Adjournment

Member	AYE	NAY	ABSTAINED
Alex Rodolakis - Chair	x		
David Hirsch – Vice Chair	x		
Herb Bodensiek - Clerk			
Jake Dewey	x		
Paul Pinard	x		
Todd Walantis			
Mark Hansen	x		
Manny Alves	x		