

Zoning Board of Appeals MINUTES

Wednesday, February 8, 2023 at 7:00 PM

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, February 8, 2023, at the time indicated.

Call to Order

Chair Jake Dewey calls the meeting to order at 7:03 PM with an introduction of Board Members.

Member	Present	Absent
Dewey, Jacob	X	
Bodensiek, Herbert	X	
Pinard, Paul	X	
Hansen, Mark	X	
Walantis, Todd		X
Johnson, Denise	X	
Webb, Aaron	X	

Also in attendance: Anna Brigham – Principal Planner, Charlie McLaughlin – Assistant Town Attorney, and Genna Ziino – Administrative Assistant

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.

Time Extension Request

7:00 PM

Appeal No. 2021-066

Manzi

Request by Attorney Jennifer E. Carey, on behalf of Manzi Cotuit Trust and Slow Marsh One Nominee Trust, for a six (6) month extension of time in which to exercise Appeal No. 2021-066 granted for a Variance. The Variance was granted in order to allow an adjustment to lot lines between two lots and is currently scheduled to lapse on February 14, 2023. The subject property is located at 1446 and 1462 Main Street, Cotuit, MA as shown on Assessor's Map 017 as Parcels 013 and 021. It is located in the Residence F (RF) Zoning District.

Sitting on this is Chair Dewey, Paul Pinard, Herb Bodensiek, Aaron Webb, and Mark Hansen.

Attorney Jennifer Carey is representing the applicant. She informs the Board that nothing about this appeal has changed. Land Court has just not approved it yet. Herb Bodensiek moves to grant the extension to August 14, 2023. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard

Nay: None

Variance No. 2021-066 Manzi received a six-month extension to August 14, 2023.

Minutes

January 25, 2023 and July 27, 2022. Mark Hansen makes a motion to approve both sets of minutes. Aaron Webb seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Denise Johnson

Nay: None

Old Business

7:01 PM

Appeal No. 2022-021

Vuilleumier

Louis Vuilleumier has filed an appeal of an Administrative Official's Decision in accordance with Section 240-88 Appeals. The Building Commissioner issued a Notice of Zoning Violation and Order to Cease & Desist on March 3, 2022 which stated that the total number

of dwelling units are four: three units in the main dwelling and one in the detached barn/workshop are a zoning violation under Chapter 240-11 A. (1) in the RF-2 Residence F-2 Zoning District. The subject property is located at 4380 Main Street, Barnstable, MA as shown on Assessors Map 351 as Parcel 042. It is located in the Residence F-2 (RF-2) Zoning District. Continued from December 7, 2022. Members assigned were Dewey, Bodensiek, Hansen, Pinard, Webb.

Attorney Chuck Sabbat is representing the applicant. Since the last meeting, he and his client met with the Building Commissioner to try and find an alternate pathway to establish legal use of Mr. Vuilleumier's units. They now want to file an application for a special permit for an ADU. They are asking for another continuance for two months to get that together. Chair Dewey makes a motion to continue this to April 12, 2023. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard

Nay: None

Appeal No. 2022-021 Vuilleumier is continued to April 12, 2023.

7:02 PM

Appeal No. 2022-054

Vilsaint

Kevin Y. Vilsaint and Corrie L. Vilsaint have applied for a Special Permit pursuant to 240-47.1.B. (4) Family Apartments. The Applicants are seeking to demolish an existing 1,384 square foot accessory structure and construct a new 1,384 square foot detached family apartment. The subject property is addressed as 358 Flint Street, Marstons Mills, MA as shown on Assessor's Map 101 as Parcel 121. It is located in the Residential F (RF) Zoning District. Continued from January 11, 2023.

The Board received a letter request to withdraw without prejudice. Chair Dewey makes a motion to accept the withdrawal without prejudice. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Denise Johnson

Nay: None

Special Permit No. 2022-054 Vilsaint is withdrawn without prejudice.

New Business

7:03 PM

Appeal No. 2022-055

Ciluzzi

John E. Ciluzzi, Trustee of Woods Beech Leaf Island Trust, has filed an appeal of an Administrative Official's Decision in accordance with M.G.L 40A §15 and Barnstable Zoning Ordinance Sections 240-88, 240-90 and 240-91 Appeals. The Petitioner seeks to overturn the Building Permit Denial Letter of the Building Commissioner dated November 4, 2022. In the Building Permit Denial Letter, the Building Commissioner stated the Petitioner did not demonstrate conformance with the Zoning Ordinance §240-11 and that the lot does not have the required land area and that the application lacked evidence that would show that it benefits from the single-lot exemption under M.G.L. 40A §6. The subject property is located at 149 Beech Leaf Island Road, Centerville, MA as shown on Assessors Map 187 as Parcel 063-005. It is located in the Residence D-1 (RD-1) Zoning District.

Sitting on this is Chair Dewey, Herb Bodensiek, Aaron Webb, Paul Pinard, and Denise Johnson. Mark Hansen disclosed that the petitioner's mother is his neighbor, so recused himself.

Attorney Jeff Johnson is representing the applicant. He tells the Board that his client was before the Board in 2017 trying to make this lot buildable, which ultimately was denied. They appealed to Land Court, and that is still pending. As part of that process, the judge asked the applicant to come back to the Building Commissioner with their new theory of buildability. They submitted their new materials to Commissioner Florence, who was not satisfied. Attorney Johnson is now addressing those concerns. Regarding the gaps Commissioner Florence is concerned about, they are from trusts from the 80's and 90's that were used for checkerboarding the lots in question. The records from the trusts are lost. The subdivision was originally developed by the Silvia brothers (Silvia & Silvia), who checkerboarded the lots between two corporations. They then gave a deed in lieu to some limited partnerships controlled by Cape Cod Bank and Trust, who sold the lots to Brian Dacey, as trustee of three different trusts. Commissioner Florence was looking for whether the Silvia brothers were linked to any of those trusts. Attorney Johnson submitted an affidavit from Brian Dacey stating that he does not know who the beneficiaries of the trusts in question were, but he knows he was careful to separate the lots and the Silvia brothers were not the beneficiaries.

Attorney Johnson argues that all the lots have maintained checkerboarding except one small period of time between 1994 and 1995, when Marjorie Woods owned both 520 South Main Street and lot 7 on the Land Court plan. But he suggests that the language of the

bylaw says the lots wouldn't merge during that time: the final clause of section A of 240-91 says, "was separately owned at the time of every zoning change which made it nonconforming." He is arguing that only the day of the zoning change is significant. There were two zoning changes pertinent: the last day of February 1985 and November of 2000. The properties were not commonly held on either of those dates.

He believes the lots could be separately buildable under 4 ideas: single lot exception; common lot exception; that adding a piece of property to 520 South Main Street would have destroyed the vesting; and that this lot has commonly planned protection. He presents the Board with a flow chart¹ of who owned what and when, to support his argument that suggests that commonality of ownership matters only on the date of a zoning change.

Chair Dewey brings it back to the Board for questions. Paul Pinard requests the town attorney's opinion on the legal arguments.

Chair Dewey opens for public comment. Attorney David Reid is representing five abutters: Mr. and Mrs. Cirillo; Mr. and Mrs. Gerlovin; Dr. and Mrs. Rigobon; RADM and Mrs. Robinson; and Mr. and Mrs. Delaney. Attorney Reid doesn't believe initial grandfathering provisions would have offered protection in this instance because of the subsequent common ownership by the Woods family. The provision Attorney Johnson is relying on does not mean protection of grandfathered lots cannot be lost if one chooses to acquire adjoining land and one or both parcels is nonconforming. When Marjorie Woods owned both lots, they would have been merged. Regarding the argument for single lot protection: the trusts involved in the checkerboarding scheme (Silvia and Silvia Associates Incorporated and Beech Leaf Island Incorporated) were identical and both owned by the Silvia brothers. It would not be exempt from the zoning change in 2000 either, because at that time the Woods family owned both properties. The argument for multi-lot protection involves the same concern that the Silvia brothers owned both trusts and therefore did not successfully checkerboard. Regarding the protection from a subdivision freeze, Attorney Reid believes the lots were under common control. If the information on the trusts is unavailable, the applicant cannot prove they were not commonly controlled. Attorney Reid additionally believes a notice of appeal must specify the grounds for appeal in the notice. This was not done by Attorney Johnson. He provided no new information until almost two months after the deadline for notice had passed. Secondly, in 2015 the Woods children who owned the lots applied for a variance to unmerge the lots (they ultimately withdrew). They acknowledged it had merged and asked for relief. The lots merged in 1994 when Marjorie Woods became the sole owner of both properties.

Chris Lothrop of 520 South Main St. addresses the Board. He purchased his property in January of 2021. Prior to purchase, he was informed of the ongoing legal issues. He spoke to the owners of 149 Beech Leaf Island Road and said he would be willing to buy the unbuildable lot, but was told it was under contract. He doesn't want to see the property developed. He and his attorney, Attorney Finegold out of New Bedford, made an offer to buy the existing contract or property, but it didn't happen. He is frustrated by the repeating process of applying and appealing the buildability of the lot.

Building Commissioner Brian Florence says this is a simple case of missing documents. He never reached the technical merits that Attorneys Johnson and Reid are discussing, because his review of the corporate structures caused him to seek the schedule of beneficiaries to establish control. The only way he can establish whether the lots have merged it to identify who controlled them. Instead of a schedule of beneficiaries, Attorney Johnson provided the affidavit that discusses who Mr. Dacey believes were the beneficiaries, but there is no definitive proof. The Commissioner is instructed that he "shall withhold a permit...if [a building or structure] would be in violation of zoning ordinance." Without the ability to follow the chain of ownership, he cannot say definitively who was in control. At that point, there is nothing more he can do.

Paul Pinard asks if the Commissioner believes Attorney Reid's argument about the missed time limit for the appeal grounds would apply. The Commissioner says that is not for him to determine. Aaron Webb asks if there is no documentation to support finding an answer, what can be done? The Commissioner says that is where the ZBA comes in. Aaron Webb feels unsure about whether it's fair to restrict the buildability of the lot, because now nothing can be done with it. Chair Dewey says Mr. Ciluzzi knew it wasn't a buildable lot before he purchased it, when his 2017 appeal was denied by the ZBA. Furthermore, the owner can apply to the ZBA for a variance to build on the lot.

Assistant Town Attorney Charlie McLaughlin explains that this came back to the ZBA because the plaintiff said the theory of the case had changed given further evaluation of theories that the lot was not merged. A decision was made by Land Court that it was best to remand back to the Commissioner/town to avoid the applicant having to start from scratch. So it went back before the Commissioner, was denied, and is now before the ZBA. From his perspective, in a nominee trust the control is with the beneficiaries. The key mechanisms in this case are nominee trusts, and there is no information to identify who was in control of those trusts.

¹ [Link to flow chart:](#)

<https://itlaserfiche.town.barnstable.ma.us/WebLink/DocView.aspx?id=874198&dbid=0&repo=TownOfBarnstable>

Paul Pinard asks again about whether Attorney Johnson’s appeal application was appropriate. Attorney McLaughlin says that will be up to Land Court to decide—this case was on remand so he isn’t sure if the rules are the same for submitting a new theory versus an entirely new application. Denise Johnson asks why this wasn’t resolved if the smaller property was sold recently. Attorney McLaughlin can’t comment as he wasn’t involved in those transactions, but says people acquire unbuildable lots for various reasons. The Board discusses some hypothetical situations of ownership and buildability, which Attorney McLaughlin deems irrelevant because procedurally, establishing control needs to be the first step. Herb Bodensiek is against overturning.

Paul Pinard asks if there was common ownership, would the lots have merged. Attorney Johnson says no, the acre lot was vested and adding to it destroys that vesting. He is arguing that the lots were successfully checkerboarded, and that Mr. Dacey’s affidavit is sufficient proof that there was no common control. Paul Pinard disagrees.

Attorney Reid rebuts that a lot being vested doesn’t mean it can’t be merged. A lot won’t lose vested status by changing its square footage or by reducing its nonconformity. Mr. Dacey’s affidavit doesn’t change the fact that there was subsequent common ownership by Marjorie Woods, which results in the merger.

Admiral Harold Robinson of 155 Beech Leaf Island Road addresses the Board to say that the one Board member who voted to grant the 2017 appeal had been concerned that the Woods daughters were reliant on the sale of the lot for their inheritance. At this point, they’ve gotten their inheritance so he wants the Board to know that that issue is gone.

Chair Dewey says there were two letters submitted by Attorney Reid in opposition. Chair Dewey makes a motion to close public comment. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Aaron Webb, Paul Pinard, Denise Johnson

Nay: None

The Board deliberates. Herb Bodensiek, Paul Pinard, and Denise Johnson are opposed. Aaron Webb is unsure. The Board discusses whether the applicant could come before the ZBA with a request for a variance to build on the lot.

Chair Dewey makes a motion to uphold the Building Commissioner’s decision. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Denise Johnson

Nay: Aaron Webb

In Appeal No. 2022-055 Ciluzzi, the Building Commissioner’s decision is upheld.

7:04 PM

Appeal No. 2023-001

Centerville Gardens II, LLC

Centerville Gardens II, LLC has petitioned for a Variance pursuant to Section 240-125 B. (1)(c) and (e) Variances; 240-107 Wireless Requirements; Article IX Site Plan Review; and MGL Ch. 40A. The Petitioner seeks to construct a 110 foot above-ground level (AGL) monopole-style tower with the capacity for at least four wireless communication services providers, together with related amplifiers, cables, fiber, and other associated antenna equipment, to replace the existing tower at 1047 Falmouth Road where 30 feet is the maximum height. The subject properties are located at 36 Wequaquet Lane, Centerville, and 1060 Falmouth Road, Hyannis, as shown on Assessor’s Map 250 as Parcels 023-T00 and 023-H00, respectively. The parcels are located in the Residence D-1 (RD-1) and Highway Business (HB) Zoning Districts, respectively.

Attorney Ed Pare, who is representing the applicant, requests that Chair Dewey read both Centerville Gardens appeals into the record so he can present for both at the same time. The Chairman reads 2023-002 into the record:

7:05 PM

Appeal No. 2023-002

Centerville Gardens II, LLC

Centerville Gardens II, LLC has applied for a modification of Special Permit 2012-007 Condition No. 5, pursuant to Section 240-125 C. and MGL Ch. 40A. The Applicant seeks to allow commercial activity and associated site improvements within the portion of the site located within the RD-1 Zoning District. The subject properties are located at 36 Wequaquet Lane, Centerville, and 1060 Falmouth Road, Hyannis, as shown on Assessor’s Map 250 as Parcels 023-T00 and 023-H00, respectively. The parcels are located in the Residence D-1 (RD-1) and Highway Business (HB) Zoning Districts, respectively.

Sitting on this is Chair Dewey, Paul Pinard, Herb Bodensiek, Aaron Webb, and Mark Hansen.

Attorney Pare says he was before this Board in 1999 to zone the existing tower at 1047 Falmouth Road. That lease has run its maximum term. Crown Castle, Inc. owns the tower and the infrastructure around the tower, and they lease space on the tower out. Now they need to find a new location for the tower. They've gone through the Cape Cod Commission and gotten approval. He explains that the lot at 1060 Falmouth Road is complicated because it's in two villages and zoning districts, and has two addresses. The special permit for that property had a condition that any updates would be on the Falmouth Road side, and there would be no more buildout of the lot. There are no existing options for the tower. The lot was of interest because it's already developed and has parking right up to the residential portion. They are proposing a gravel access drive to the tower, with some vegetative screening and an 8-foot high wooden fence.

He believes this is not commercial use, it's infrastructure for public use. He walks the Board through the site plans. He explains that they shifted the tower to maintain a 110-foot fall zone from residential property lines. The site was previously developed with a dwelling, so it's predisturbed area. The tower will support the equipment of at least 4 carriers. They will implement acoustics through a sound barrier in the fence. They identified how far properties are from the tower and the closest is 176 feet. It's 319 ft. from the face of the monopole to Route 28. Scott Adams, Civil Engineer with Advance Engineering is with Attorney Pare.

Chair Dewey clarifies whether the applicant is asking for a use variance. Attorney Pare says they are only asking for a height variance because Barnstable allows the use of antennas. They discuss whether building in a fall zone is allowed. Attorney Pare ensures that it's allowed. Chair Dewey asks if all ground-mounted equipment is outside of the fall zone. Attorney Pare confirms.

They provided a noise study (humming noise is generated by backup generators). He directs the Board to Exhibit 8 of his submitted packet, which reviews a crane test they conducted in December 2021. Chair Dewey asks about color. Attorney Pare says it's galvanized, and it will weather a bit. If they painted it, it would require maintenance. Mark Hansen asks if there were abutters with concerns at the Commission's hearings. Attorney Pare says yes, there were three or four and their concerns were addressed. There were concerns about visibility; health impact (they are fully compliant and are at only 19% of the maximum allowance); and real estate value, so they did a study (Exhibit 14 of submitted packet). Herb Bodensiek asks about fence height restriction. Attorney Pare didn't see any restrictions in the ordinance. Herb Bodensiek asks how cell reception will be for people close to the tower. Attorney Pare says the short answer is they will have reception, but he has brought an expert who will explain more on that later.

Attorney Pare walks the Board through Exhibit 5 of his packet. It is a map of ATT's current limited cell service coverage in the area without a spot on the existing tower, and a depiction of the coverage if the tower is approved. It illustrates the need for the tower. Sohail Usmani, who works for C Squared, further explains Exhibit 5. Once the current site is decommissioned, the new tower will mimic that old one. To answer Herb's earlier question, you may get less reception under the tower, but you would still get a signal.

George Valentine, a licensed real estate appraiser walks the Board through the real estate study. The purpose was to determine if there would be a negative impact on surrounding property values. The methodology is to compare sales of properties close to existing towers to properties sold without the presence of a tower. The most significant evidence locally was a condo sale in Falmouth (Highfield). There was a 174-ft. tower put in 400 ft. from a condo. The sale price near the tower was actually slightly higher than comparable condos. He never saw any evidence that there is diminution of value when towers are nearby.

Attorney Pare says the demand for wireless services has never been higher. This tower is driven by consumer demand. The rear portion near the homes is well treed. His client has duly eliminated all other site options—this is the best they can do.

Chair Dewey brings it back to the Board for questions. Aaron Webb asks what's wrong with the current location. Attorney Pare says there were discussions between Crown Castle and the property owner but they did not reach an agreement. That tower is older and his client is looking to add two more carriers so will need ground space for those too. Chair Dewey asks if the tower will be emitting 5g. Attorney Pare says 5g is a standard, a speed/reliability. This tower fully complies with the FCC. It's possible it will emit 5g. Chair Dewey asks for the useful life of the monopole. Paul Peckins, a representative from Crown Castle answers that ideally, it's a 100-year design for 4 carriers. Chair Dewey asks who's in charge of dismantling. Mr. Peckins answers in this instance, it's Crown Castle.

Chair Dewey opens for public comment. Mary Ellen Goodwin of 10 Hazelwood Road in South Dennis was the previous owner of 38 Wequaquet Lane. She is sad about the situation, and asks the Board to consider that this is Cape Cod and people move here for a reason. She is frustrated by the process she has to go through to attend meetings and defend her case. She says she was never notified of the Strawberry Hill Medical Center being built, which she says had seriously impacted her property. She also discusses her frustration regarding abutter notices. The abutter notice was mistakenly addressed to her rather than the new property owner, and so was forwarded to her new address. When she received it, she emailed the Planning & Development department, and then it took 2-3 more days before Mr. Harrigan was notified. She had to send an email the day after her first email to ask for confirmation. She feels it's not the end of the world if people don't have cell reception. She reports she didn't get good service at the property, and is an ATT customer. She is upset that the crane test was done on December 17, which she feels was purposely done near the holiday

so people would be paying less attention. She passes photos of the crane from the house's living room to the Board.² She says no one ever came on her property to take photos. It was never made clear to her why negotiations for the current property failed. She reports that Paul Cooper, who lives at 46 Wequaquet Lane, is concerned that his pacemaker will be affected by the tower's radiation. She says the new owner, Richard Harrigan, did not have enough time to get legal representation. She says the special permit for this property has a condition of no further development. She begs to differ that this infrastructure is not commercial use. She also says an email she sent with her crane photos never made it to the Cape Cod Commission in time for the meeting, and she is skeptical that that was a coincidence. When she emailed again, her photos did appear. She doesn't believe the real estate study is accurate, and she was a real estate agent and heard from people/read online that there is at least a 20-30% drop in home values near towers. She feels the area is falling apart and asks the Board to deny the request because of the height.

Richard Harrigan is the current owner of 38 Wequaquet Lane. Last year he bought his home; he knew nothing about this tower. His first notification of this meeting was Friday, February 3 at 4:30 p.m. He expresses frustration that he was not included in the town's abutter list. He says he was also not notified by the Cape Cod Commission. He thinks the proposed tower is too tall. It is 35 yards from his front deck. He is upset that no photos from his property were shown in the applicant's presentation. He bought this property to watch the sunrise and sunset. He shows the Board a map of his property and the subject property.³ He is concerned that the Commission waived a portion of the fall zone, and that the tower is taller than the fall zone and so would fall in his property. He requests a continuance to prepare and get legal representation. He says he would never have bought this property if there was a 110-foot cell tower 35 yards away, and believes he will have to sell the property at a loss.

Attorney Pare responds that his team has been nothing but transparent. He is not opposed to a continuance to allow Mr. Harrigan time to prepare. He says the abutter notice is unfortunate and is through no fault of their own, and still met all legal requirements. Regarding the fall zone, there is no waiver for the residential portion. The Commission waived the fall zone to the commercial property because it allowed them to keep the tower away from the residential properties to the north. The tower is 110 feet from Mr. Harrigan's property line and 178 feet from his dwelling. Regarding the timing of the crane test, it was not nefarious and they had no control over the scheduling. It was coordinated by the town and the Commission, and was not purposely done near the holiday. Crown Castle sent notices for the crane test to abutters even though they weren't required to. They're only allowed on public ways so that is why they did not go into private ways for photos. He says this process has been going on for a year and half, following all regulations, completely out in the open every step of the way.

Chair Dewey says for the record there was an issue with IT and GIS: the certified abutter list didn't update to the new owner and so Mr. Harrigan didn't receive his notice until later. (Administrative note: The abutter notice was sent to the correct address, but under the previous owner's name: Mary Ellen Goodwin. The Assessor's record indicated Richard Harrigan as the owner of record as of 1/1/2023, but the Certified Abutters List, which was run on 1/3/2023, mistakenly listed Ms. Goodwin. The abutter notices were sent 15 days prior to the hearing date thereby complying with M.G.L. Chapter 40A Section 11. The legal ad was published in the Barnstable Patriot on January 20, 2023 and January 27, 2023. Town staff collaborated with GIS/Assessing to follow all proper protocols and ensure the mistake was corrected and will be prevented going forward.)

Herb Bodensiek asks how accurate the location of the crane is. Mr. Adams says the balloon is where the tower will be. The top of the crane is where the top of tower will be. They have done 11 revisions working with the Commission, and have shifted as far away from the residential properties as possible. Regarding the fall zone, as a practical matter towers don't fail at the base—they're specifically designed to crumple so it would never fall into Mr. Harrigan's yard.

Chair Dewey moves to continue both appeals to March 8, 2023 at 7 p.m. Aaron Webb seconds. Public comment remains open.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard

Nay: None

Appeals No. 2023-001 and 2023-002 Centerville Gardens, Inc. are continued to March 8, 2023 at 7:00 p.m.

7:06 PM

Appeal No. 2023-003

Hilary M. Stone, Trustee of the Malpass Trust

Hilary M. Stone, Trustee of the Malpass Trust, has applied for a Special Permit pursuant to Section 240-44 A. Accessory Uses Permitted with a Special Permit. The Applicant seeks to construct an accessory structure (boat barn/garage/greenhouse) on a lot

² [Link to Mary Ellen Goodwin's photos:](https://itlaserfiche.town.barnstable.ma.us/WebLink/DocView.aspx?id=874200&dbid=0&repo=TownOfBarnstable)

<https://itlaserfiche.town.barnstable.ma.us/WebLink/DocView.aspx?id=874200&dbid=0&repo=TownOfBarnstable>

³ [Link to Richard Harrigan's map:](https://itlaserfiche.town.barnstable.ma.us/WebLink/DocView.aspx?id=874201&dbid=0&repo=TownOfBarnstable)

<https://itlaserfiche.town.barnstable.ma.us/WebLink/DocView.aspx?id=874201&dbid=0&repo=TownOfBarnstable>

immediately opposite and across the road from the lot on which the principal use it serves is located, with both lots being held in identical ownership. The subject property is located at 94 Indian Trail, Barnstable, MA as shown on Assessors Map 336 as parcel 015. It is located in the Residence F-1 (RF-1) Zoning District.

The Board received a request from Attorney Michael Schulz to continue this to February 22, 2023. Chair Dewey makes a motion to continue this to February 22, 2023 at 7:00 p.m. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Paul Pinard, Denise Johnson

Nay: None

Appeal No. 2023-003 Stone is continued to February 22, 2023.

Correspondence

None

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

February 22, 2023, March 8, 2023, March 22, 2023 (All via Zoom)

Adjournment

Chair Dewey makes a motion to adjourn. Paul Pinard seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Paul Pinard, Denise Johnson, Aaron Webb

Nay: None

Respectfully submitted,
Genna Ziino, Administrative Assistant

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