



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 Robert Twiss – Associate Member
David Bogan – Town Council Liaison

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, August 12, 2020

As a quorum has been met, Herbert Bodensiek chairs the hearing and calls it to order.

Call to Order

Herb reads the following names for attendance:

	ZOOM	Conference Call	Absent
Alex Rodolakis			x
David Hirsch			x
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard			
Todd Walantis	x		
Mark Hansen	x		
Robert Twiss	x		
Anna Brigham	x		
Carol Puckett		x	

29 OCT '20 AM 10:38
BARNSTABLE TOWN CLERK

In the breakout room is: David Bogan, Elizabeth Jenkins

Herb reads the following 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.

Minutes

February 26, 2020, March 27, 2020, April 8, 2020, May 27, 2020, June 10, 2020, June 24, 2020, July 8, 2020

Motion to approve the February 26, 2020 minutes as submitted is made by Todd Walantis and seconded by Jake Dewey

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Motion to approve the March 27, 2020 minutes as submitted is made by Todd Walantis and seconded by Mark Hansen

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Motion to approve the April 8, 2020 minutes as submitted is made by Todd Walantis and seconded by Herb Bodensiek

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Motion to approve the May 27, 2020 minutes as submitted is made by Todd Walantis and seconded by Bob Twiss

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Motion to approve the June 24, 2020 minutes as submitted is made by Todd Walantis and seconded by Herb Bodensiek

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Motion to approve the July 8, 2020 minutes as submitted is made by Todd Walantis and seconded by Herb Bodensiek

Vote by voice:

AYE: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Bob Twiss

NAY: None

ABSTAINED: None

Elizabeth Jenkins makes a point of order and asks Herb Bodensiek to read the Zoom information before getting into the public hearing.

Herb reads the following:

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/97300117079>

Meeting ID: 973 0011 7079

888 475 4499 US Toll-free

Meeting ID: 973 0011 7079

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.

Herb reads the following into the record:

Old Business

Attorney Charles Sabatt is here representing the applicant.

7:00 PM Appeal No. 2019-050

1000 Main, LLC.

1000 Main LLC., has applied for a Special Permit pursuant to Section 240-20.B – West Barnstable Village Business District. The Applicant is seeking relief in order to store small traditional sailboats and to continue the pre-existing use of three residential units in the dwelling. The subject property is located at 1000 Main Street, West Barnstable, MA as shown on Assessor’s [Map 179 as Parcel 002](#). It is located in the West Barnstable Village Business District (WBVBD) and the Residence F (RF) Zoning Districts.

Continued from September 25, 2019. Members assigned: Alex Rodolakis, Herbert Bodensiek, Paul Pinard, Todd Walantis and Bob Twiss.

Time Extension Signed and Time Stamped – Decision due January 3, 2020. Continued from December 11, 2019. Time Extension signed – Decision Due: 04-27-20 Continued from April 8, 2020 – Time Extension Continued to June 24, 2020 – Members assigned Alex Rodolakis, Herb Bodensiek, Paul Pinard, Bob Twiss, Mark Hansen. Continued to August 12, 2020.

Attorney Sabatt indicates that the property had been under a Purchase and Sales Agreement. However, since that time, his client has elected to market that property to a buyer that is either in compliance with the property as is or will obtain a special permit. His client had reached a point in June with a prospective buyer who was awaiting financing. However, that didn’t work out and it is on the market again at this time. His client is hopeful that he will get a buyer which will render this request for relief moot. Attorney Sabatt therefore is asking the board to grant a further continuance to September 9, 2020.

Motion is made by Bob Twiss and seconded by Mark Hansen to continue to September 9, 2020 at 7:00 PM

Herb assigns members: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Robert Twiss

	AYE	NAY	ABSTAINED
Alex Rodolakis	Absent	Absent	Absent
David Hirsch	Absent	Absent	Absent
Herb Bodensiek	x		
Jake Dewey			x
Paul Pinard	Absent	Absent	Absent
Todd Walantis	x		
Mark Hansen	x		
Robert Twiss	x		

CONTINUED TO SEPTEMBER 9, 2020 AT 7:00 PM

Herb reads the following into the record:

New Business

7:01 PM Appeal No. 2020-025

Cape Resources

EAC Organics, Inc, d/b/a Cape Resources have petitioned for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road. The Petitioner seeks to reduce the area of the wood waste re-cycling operation. The subject properties are located at 280 Old Falmouth Road and “0” Old Falmouth Road, Marstons Mills , MA as shown on Assessors Map 100 as Parcel 008 and Map 100 as Parcel 007. Both lots are located in the Residence F (RF) Zoning District, Groundwater Protection (GP) and the Ground-Mounted Solar Photovoltaic Overlay Districts.

Attorney Charles Sabatt is representing the applicant. Attorney Sabatt states that he is requesting a continuance. He was notified by the Planning and Development Department that they needed more time to review and in order to consult with Charlie McLaughlin from the Town Attorney’s office. Therefore, he is asking for a continuance to August 26, 2020 at 7:00 PM

Motion to continue to August 26, 2020 at 7:00 PM is made by Bob Twiss and seconded by Jake Dewey

Roll call vote

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	Absent	Absent	Absent
David Hirsch	Absent	Absent	Absent
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	Absent	Absent	Absent
Todd Walantis	x		

Mark Hansen	x		
Robert Twiss	x		

CONTINUED TO AUGUST 26, 2020 AT 7:03 PM

Herb reads the following into the record:

7:02 PM

Appeal No. 2020-004

West Re-Notice

Maryanne West, as Appellant is appealing the Building Commissioner's issuance of a demolition permit. The subject property is 125 Wianno Circle Osterville, as shown on Assessors Map 140 Parcel 091. Ms. West had notified the Building Department of her objections to this demolition permit prior to its issuance and has submitted this appeal to contest the demolition of dwelling.

Ms. West speaks and states that she has a document that she would like to hand in and asks, that in order for the board to review, if she can continue this to sometime in October. Herb asks if there is a motion to continue.

Elizabeth Jenkins – Director of Planning & Development states that they have had this application before the Board since December, 2019 and to make Ms. West aware that, for the record, because of her failure to complete the application as a result of her not paying her filing fees for this appeal, at this point is recommending that this be dismissed as an incomplete application and is asking for a procedural denial and thinks that it is fair letting Ms. West know that it will continue to be their recommendation. She also notes that Ms. West has not cited the appropriate section of the ordinance she is appealing.

Maryanne West speaks and said that she did initially pay it. However, Brian Florence called her the next day and told her to cancel her application before the ZBA and to give Anna Brigham a call, which she did.

Mark Hansen asks Ms. West if this is the first time she has heard about these deficiencies as noted. Ms. West states that the next day she was informed by Brian Florence to cancel her application with the Zoning Board and therefore went ahead and cancelled her checks she had previously submitted.

Bob Twiss thinks that it is clear that the payment to the Town was never made, the Town never received the money and makes a motion to dismiss this case.

Motion is seconded by Mark Hansen

Herb Bodensiek asks the members if she would be better to withdraw without prejudice.

Bob Twiss states that his motion is to dismiss.

Roll Call Vote:

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	Absent	Absent	Absent
David Hirsch	Absent	Absent	Absent
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	Absent	Absent	Absent
Todd Walantis	x		
Mark Hansen	x		
Robert Twiss	x		

CASE DISMISSED

Herb reads the following into the record:

7:03PM

Appeal No. 2020-024

Elefante/Gardiner as Trustees Re-Notice

Mark B. Elefante, Trustee of 25 East Avenue Realty Trust and Nancy B. Gardiner, Trustee of 45 East Avenue Realty Trust are appealing the decision of the Building Commissioner for denying their request for enforcement in suspending construction of the structure (foundation) extending from the dwelling into East Avenue and removal of said foundation as it exceeds the scope of the building permit, which permit was premised upon Special Permit 2017-071. The subject property is located at 8 East Avenue, Osterville, MA as shown on Assessor's Map 139 as Parcel 075. It is located in the Residence F-1 (RF-1) Zoning District.

Members assigned tonight: Herb Bodensiek, Jake Dewey, Todd Walantis, Mark Hansen, Robert Twiss

Herb notes that there is an email dated August 11, 2020 from Attorney Michael Schulz requesting a continuance to September 9, 2020.

Motion to continue to September 9, 2020 at 7:00 PM is made by Mark Hansen and seconded by Herb Bodensiek

Roll Call Vote:

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	Absent	Absent	Absent
David Hirsch	Absent	Absent	Absent
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	Absent	Absent	Absent
Todd Walantis	x		
Mark Hansen	x		
Robert Twiss	x		

CONTINUED TO SEPTEMBER 9, 2020 AT 7:00 PM

Correspondence

August 3, 2020 Notice from Town Council, proposed Zoning Amendment Item No. 2020-193 to add provisions for short term rentals scheduled for Thursday August 20, 2020 at 7:00 PM.

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

August 26, 2020, September 9, 2020, September 23, 2020

Adjournment

Motion to adjourn is made by Bob Twiss and seconded by Mark Hansen

Roll Call Vote:

MEMBER	AYE	NAY	ABSTAINED
Alex Rodolakis	Absent	Absent	Absent
David Hirsch	Absent	Absent	Absent
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	Absent	Absent	Absent
Todd Walantis	x		
Mark Hansen	x		
Robert Twiss	x		