

Zoning Board of Appeals

MINUTES

Wednesday, November 9, 2022 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, November 9, at the time indicated:

The Zoning Board of Appeals Public Hearing will be held by remote participation methods. 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 Option	Telephone Number Option
https://townofbarnstable-us.zoom.us/j/89620263548	US Toll-free: 888 475 4499
Meeting ID: 896 2026 3548	Meeting ID: 896 2026 3548

3. Applicants, their representatives and individuals required or entitled to appear before the Zoning Board of Appeals may appear remotely, 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

Paul Pinard calls the meeting to order at 7:02 PM and takes roll call:

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

Notice of Recording

Paul Pinard reads: 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

September 28, 2022 – Mark Hansen makes a motion to approve. Denise Johnson seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

October 12, 2022 – Mark Hansen makes a motion to approve. Aaron Webb seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Executive Session

G.B. BLAUVELT, ET AL v. TOWN OF BARNSTABLE ZONING BOARD OF APPEALS

571 Old Post Road, Cotuit/Marstons Mills

DOCKET # 1872cv00431

The Board shall enter into executive session for the purpose of discussing litigation strategy with respect to this case after the Chair determines that a discussion in public session could be detrimental to the Board's position.

Paul Pinard notes that since the Chair and Vice Chair are not at this meeting, the executive session will be delayed.

Old Business

7:00 PM

Appeal No. 2022-033

Couto's Realty Investment/Dunkin Donuts

Couto's Realty Investment Co., II LLC has petitioned for a Variance from 240-25 D. Bulk Regulations in the HB District. The Petitioner is seeking a variance from the side yard setback for a proposed drive-thru canopy. The proposed setback is 7.2 feet where 10 feet is required. The subject property is located at 751 West Main Street, Hyannis, MA as shown on Assessor's Map 249 as Parcel 163. It is located in the Highway Business (HB) Zoning District. Continued from July 13, 2022, July 27, September 14, 2022. Request to withdraw received September 28, 2022.

All members present will sit on this.

Denise Johnson makes a motion to accept the withdrawal of Appeal No. 2022-033. Mark Hansen seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Appeal No. 2022-033 Couto's Realty Investment/Dunkin Donuts is withdrawn.

7:01 PM

Appeal No. 2022-034 READVERTISED

Couto's Realty Investment/Dunkin Donuts

Couto's Realty Investment Co., II LLC has applied for a Special Permit pursuant to Section 240-25 C. Conditional Uses in the HB District and Section 240-93 B. Alterations and expansions of a nonconforming structure not used as single or two family residences by Special Permit. The Applicant is seeking to add a drive-thru to the existing Dunkin Donuts. The subject property is located at 751 West Main Street, Hyannis, MA as shown on Assessor's Map 249 as Parcel 163. It is located in the Highway Business (HB) Zoning District. Continued from July 27, 2022, September 14, 2022. Request to withdraw received September 28, 2022.

Mark Hansen makes a motion to accept the withdrawal of Appeal No. 2022-034. Denise Johnson seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Appeal No. 2022-034 Couto's Realty Investment/Dunkin Donuts is withdrawn.

7:02 PM

Appeal No. 2022-039 READVERTISED

157 Thornton Drive LLC

157 Thornton Drive LLC has applied for a Special Permit pursuant to Section 240-93 B. Expansion of a preexisting nonconforming structure and to Section 240-57 Reduction in Parking. The Applicant seeks to construct an approximately 2,002 square foot storage addition to the southern end of the existing building. The existing structure is nonconforming to numerous dimensional, parking, and screening requirements and the proposed expansion will

also be nonconforming to dimensional, parking, and screening requirements. The subject property is located at 157 Thornton Drive, Hyannis, MA as shown on Assessor's Map 296 as Parcel 019. It is located in the Industrial (IND) Zoning District. Continued from September 14, 2022 and October 12, 2022.

All members present will sit on this. Paul Pinard asks Attorney Liza Cox, who is representing the applicants, if she would like to move forward with this appeal despite there being only four Board members present. She confirms they would like to move forward, and requests 2022-040 also be read into the record, as the matters are related.

Paul Pinard asks for clarification about whether they are reviewing plans for the original 2,002 square foot proposed addition, or a different plan. Attorney Cox explains that she had submitted a revised plan that reduces the proposed addition to 725 square feet. The last revision date is October 20, 2022.

Attorney Cox introduces Harry and Chris Saucier, who are the property owners and the principals of Northeast Tool Supply, the business on the property. She also introduces Mark Dibb, the Project Engineer from Cape & Island Engineering who produced the site plan. She shares images of Thornton Drive with the Board and provides background: the site is .44 acres with a 7,000 square foot structure. It was constructed in the 1980's and is the home of Northeast Tool Supply. The retail area is 1,292 square feet, the office space is 695 square feet, and the storage area is 4,763 square feet. It is an almost entirely disturbed site. It also lies on a steep road, with an elevation change of about 20 feet across this site. The property is in the Industrial Zoning district, the AP overlay district, with a small corner in the WP district. No portion of the building is in the WP district.

The property has the benefit of an older variance, 1977-67. It granted relief for 7 lots, including this one. All lots were originally in the business zoning district and conformed to all zoning requirements during its 1970 subdivision. When the zoning was changed to industrial, the lots did not meet setbacks, lot area, and lot widths, so the owners applied for a variance. The Board found that the properties were unique to the zoning district because Thornton Drive divided the lots and because the zoning change rendered the land impossible to build upon because of the size and shape. The decision contains no limits to the extent of relief granted.

Attorney Cox explains that their plan proposes an addition of 725 square feet of storage to the south portion of the building. It also proposes 14 formalized parking spaces and a new stormwater management system where there currently is not one. They are requesting relief for lot coverage (31.3% existing; 35.4% proposed), parking (21 spaces required; 7 existing; 14 proposed), and special screening requirements that exist in the industrial district.

Attorney Cox reads through Section 240-93 A and B and summarizes that the standard is that the Board must find that the proposed repairs, alterations, and expansions are not substantially more detrimental to the surrounding neighborhood. She also reads Section 240-57, which allows the Board to reduce the amount of required parking when it finds the site has unique characteristics of use. In terms of compliance, they are not requesting to create any new nonconformities, only to intensify existing nonconformities of lot coverage and special screening. They will be decreasing the existing parking nonconformity. Attorney Cox shows the Board images of the surrounding areas to show that the addition will be consistent with the neighborhood and not detrimental. The applicants will also be substantially improving the drainage system and maintaining the 10-foot vegetative buffer to the south.

Attorney Cox presents suggested special permit findings:

1. Variance 1977-67 has already granted relief for the property from the lot area, lot width, front, side, and rear yard setback requirements.
2. Subject property is preexisting nonconforming to lot coverage, parking and special screening requirements and so these existing nonconforming conditions may be intensified by special permit pursuant to Section 240-93B.
3. The proposed 725 sf storage expansion does not create any new nonconformities.
4. The use (retail tool store and associated storage) requires less parking than generic "retail" category set forth in the Zoning Ordinance, which is a circumstance warranting the reduction of spaces under Section 240-57.

5. The Applicant proposed to stripe an additional 7 parking spaces (for a total of 14) although the addition only requires an additional 2 parking spaces.
6. Pursuant to Section 240-93B, the Board finds that the proposed expansion is not substantially detrimental to the surrounding neighborhood.

Attorney Cox informs the Board that during Site Plan Review, the Building Commissioner noted that the zoning ordinance category of "retail" is broad, (for example, it also includes retail convenience stores, which would require much more parking) and although this falls under that generic category, the characteristics of this proposed use will require less parking than many retail stores. She also says if the Board approves this special permit, her clients plan to withdraw their variance.

Mark Hansen asks if the intent is strictly storage. The applicant confirms it is just for storage.

Paul Pinard opens for public comment. None. Mark Hansen makes a motion to close public comment. Denise Johnson seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Paul Pinard brings it back to the Board for discussion.

Mark Hansen wants to note that he is a frequent patron, but feels he can be impartial. In his experience, parking has never been a problem. He does not see any detriment to this. Denise Johnson agrees.

Mark Hansen makes findings for Appeal No. 2022-039:

157 Thornton Drive LLC has applied for a Special Permit pursuant to Section 240-93 B. Expansion of a preexisting nonconforming structure and to Section 240-57 Reduction in Parking. The Applicant seeks to construct an approximately 725 square foot storage addition to the southern end of the existing building. The existing structure is nonconforming to numerous dimensional, parking, and screening requirements and the proposed expansion will also be nonconforming to dimensional, parking, and screening requirements. The subject property is located at 157 Thornton Drive, Hyannis, MA as shown on Assessor's Map 296 as Parcel 019. It is located in the Industrial (IND) Zoning District.

1. The application falls within a category specifically excepted in the ordinance for a grant of 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.
3. A Site Plan has been reviewed and found approvable with conditions. (see letter dated June 21, 2022).
4. Such uses do not substantially adversely affect the public health, safety, welfare, comfort or convenience of the community.
5. The Building and site design are consistent with Section 240-25.E, District-wide design and performance standards applicable within the Highway Business District.
6. The proposed repairs, alterations and/or expansion are not substantially more detrimental to the surrounding neighborhood.

Paul Pinard notes that that the applicant has reduced the addition from 2,002 square feet to 725 square feet. Denise Johnson seconds the findings.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Attorney Cox reads her requested revisions to condition 1 (she also had prepared a revised condition 2, but the Board had already received an updated condition 2 from Principal Planner Anna Brigham):

1. Special Permit No. 2022-039 is granted to 157 Thornton Drive LLC pursuant to Section 240-93 B. Expansion of a preexisting nonconforming structure and to Section 240-57 Reduction in Parking to allow the construction of an approximately 725 square foot storage addition to the southern end of the 6,087 square foot existing building which will intensify existing nonconforming lot coverage from 31.3% to 35.4%, the existing nonconforming special screening requirements and parking demand, from the required 21 spaces to proposed 14 spaces at 157 Thornton Drive, Hyannis, MA.

Mark Hansen reads that this appeal will be subject to condition 1 as presented by Attorney Cox and conditions 2-5 as written in the Staff Report originally dated July 29, 2022 and revised November 1, 2022.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Appeal No. 2022-039 157 Thornton Drive LLC is granted with conditions.

7:03 PM

Appeal No. 2022-040 READVERTISED

157 Thornton Drive LLC

157 Thornton Drive LLC has petitioned for a Variance from Section 240-33 E. Rear yard setback, Lot coverage, and Section 240-33 F. Special Screening, Section 240-56 Parking Schedule, and Section 240-57 Reduction of parking. The Applicant seeks to construct an approximately 2,002 square foot storage addition to the southern end of the existing building which will intensify existing nonconforming setback, lot coverage, screening and parking demand. The subject property is located at 157 Thornton Drive, Hyannis, MA as shown on Assessor's Map 296 as Parcel 019. It is located in the Industrial (IND) Zoning District. Continued from September 14, 2022 and October 12, 2022

The petitioner requests to withdraw. Mark Hansen makes a motion to accept the withdrawal of Appeal No. 2022-040. Denise Johnson seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Appeal No. 2022-040 157 Thornton Drive LLC is withdrawn.

Correspondence

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

December 7, January 11, January 25

Adjournment

Denise Johnson makes a motion to adjourn. Mark Hansen seconds.

Vote:

Aye: Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson

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>