

Zoning Board of Appeals

MINUTES

Wednesday, November 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, November 8, 2023, 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 live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website:
<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>
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/85156975264	US Toll-free 888 475 4499
Meeting ID: 851 5697 5264	Meeting ID: 851 5697 5264

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

Acting Chair Herb Bodensiek calls the meeting to order at 7:09 PM with an introduction of Board members:

Member	Present	Absent
Dewey, Jacob – Chair		X
Bodensiek, Herbert – Vice Chair	X	
Pinard, Paul – Clerk	X	
Alves, Manny	X	
Hansen, Mark	X	
Hurwitz, Larry		X
Johnson, Denise	X	
Webb, Aaron	X	

Also present is Anna Brigham, Principal Planner; Jim Kupfer, Assistant Director, Planning & Development; and Genna Ziino, Administrative Assistant.

Notice of Recording

This meeting of the Zoning Board of Appeals is being recorded and broadcast on the Town of Barnstable's Government Access Channel. In accordance with MGL Chapter 30A §20, I must inquire whether anyone is recording this meeting and if so, to please make their presence known.

Minutes

September 27, 2023 and October 11, 2023 – Aaron Webb moves to approve both sets of minutes. Paul Pinard seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Manny Alves, Mark Hansen, Denise Johnson, Aaron Webb

Nay: None

Old Business

7:00 PM

Appeal No. 2023-014

Ernest J. Jaxtimer

Ernest J. Jaxtimer has filed an Appeal of an Administrative Official’s Decision in accordance with Barnstable Zoning Ordinance Section 240-125 B.(1)(a) and M.G.L. Chapter 40A Section 8 and Section 15. The Petitioner seeks to overturn the Notice of Zoning Ordinance Violation and Order to Cease, Desist, and Abate Immediately from the Building Commissioner, dated May 26, 2023. Summary of violations determined by the Building Commissioner include Barnstable Zoning Ordinances Article II General Provisions Sections 240-7 A, 240-10 A; Article III District Regulations Sections 240-14 A (1); Article IX Site Plan Review Sections 240-100 A, 240-101 B, 240-103 B, 240-103 C, 240-103 K, and 240-105 G. The subject properties are located at 1450 Osterville West Barnstable Road as shown on Assessor’s Map 127 as Parcel 007 001, and 1450 Osterville West Barnstable Road #A as shown on Assessor’s Map 127 as Parcel 036. Both properties are located in the Residence F (RF) Zoning District. Continued from July 26, 2023 and September 13, 2023.

The Board received a request to continue this to January 24, 2024. Manny Alves moves to continue to January 24, 2024. Paul Pinard seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Mark Hansen, Aaron Webb, Manny Alves, Denise Johnson

Nay: None

Appeal No. 2023-014 Jaxtimer is continued to January 24, 2024.

7:01 PM

Appeal No. 2023-010

Arista Hyannis LLC

Arista Hyannis LLC has applied for a Special Permit in accordance with Section 240-25(B)(22) and 240-25(C)(10) Drive-Through for a proposed restaurant. The Applicant proposes to remodel the former bank building and change the use to a food service establishment with a drive-through. The subject property is located at 715 West Main Street, Hyannis, MA as shown on Assessor’s Map 249 as Parcel 155. It is located in the Highway Business (HB) District. Continued from May 10, 2023 and July 26, 2023 and September 13, 2023. Members assigned: Jacob Dewey, Paul Pinard, Mark Hansen, Aaron Webb, and Herb Bodensiek.

The Board received a request to continue this to January 10, 2024. The Board expresses a preference for this to be heard in person and discusses how to make that happen. Jim Kupfer suggests continuing to January 10 and, in the meantime, staff will look into options for an in-person meeting. Herb Bodensiek moves to continue this to January 10, 2024. Aaron Webb seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Manny Alves, Mark Hansen, Aaron Webb

Nay: Denise Johnson

Appeal No. 2023-010 Arista Hyannis LLC is continued to January 10, 2024.

New Business

7:02 PM

Appeal No. 2023-033

19 Bearse Rd LLC & 29 Bearse Rd LLC

19 Bearse Rd LLC and 29 Bearse Rd LLC have petitioned for a Variance pursuant to Section 240-11(A) Principal Permitted Uses in the RB Residential District; 240-11(E) Bulk and Dimensional Variances; 240-35(F) GP Groundwater Protection Overlay Districts; and to the extent required from 240-21(A)(9)(A-J & E) B, BA, and UB Business Districts. The Petitioners are proposing to demolish and replace the two existing residential dwellings, combine the two parcels, and construct 4 two-family dwellings. The subject properties are located at 19 and 29 Bearse Road, Hyannis, MA as shown on Assessor’s Maps 310 and 311 as Parcels 288 and 039, respectively. They are located in the Residence B (RB) Zoning District.

Attorney Mike Ford is representing the applicant and is joined by Attorney Jeff Ford, Zach Thomas of Atlantic Design Engineering, and Joe Laham, the property owner. This proposal involves two properties. 29 Bearse Road abuts an Audi dealership owned by Mr. Laham. Attorney Ford shares a GIS map of the parcels (entitled “Bearse GIS Map”) and walks through a map of the businesses in the area (entitled “Bearse Zoning – Map Labeled”). To the west of the property are single-family homes, most on lots of about 5,000 sq. ft. The rest of the nearby parcels are commercial. Attorney Ford explains that Mr. Laham owns several other businesses in the area and employs about 150 people. He is struggling to find workforce housing and has used the existing houses on the parcels for

employee housing. The proposed plan is to build 4 2-family dwellings with 2 units in each. Each unit will have 3 bedrooms. These units would be restricted solely to employees of Mr. Laham's businesses in Barnstable. Attorney Ford shows the Board the proposed site plan. Each unit has a garage so parking will be handled on site. This proposal has evolved through the Site Plan Review process.

Attorney Ford explains that they have applied for a use variance because this type of housing is not permitted in the RB zoning district. The shape of the parcels, which is determined by Bears Road bisecting the commercial and residential districts, determines the location of the parcels. The hardship is the acute need for workforce housing. Attorney Ford references a Watertown case from 1985 that indicated that for residential zones close to commercial areas, a use of single-family residential might not be solely appropriate. He suggests that the neighborhood to the rear wouldn't be negatively affected and these units will be a transitional area between the commercial area and the single-family residential area.

Attorney Ford walks through his suggested condition, which was drafted with the help of the Building Commissioner. The intent is to show that these units will only be used for Mr. Laham's employees and their families, and if the Audi business is ever sold, this will have to come back before the Board.

Acting Chair Bodensiek assigns himself, Paul Pinard, Aaron Webb, Mark Hansen, and Denise Johnson.

Chair Bodensiek brings it back to the Board for questions. Attorney Ford says they no longer need relief from 240-35 F or height restriction relief and would like to strike that from their request. He adds that they are bound by the site plan they submitted.

The Board discusses whether the 3-prong test is met. They discuss whether the curve due to Bears Road is a unique shape condition and whether that or the need for housing presents a substantial hardship. This is a single-family residential district and the applicant is asking for a 400% increase in density for each parcel.

Attorney Ford explains that regarding height, their Site Plan Sheet 3 zoning table says 35 ft. that is to the ridge, and Barnstable requires a measurement to the plate so they will have to correct that. But they meet height requirements. Regarding the ordinance limiting use variances within 300 ft. of Route 132, Jim Kupfer says staff did a measurement and this is just beyond 300 feet.

Attorney Ford again reiterates his reasoning: the shape of these two parcels is different than the other parcels in the immediate vicinity. Most of the lots nearby are between 5,000-7,500 sq. ft., making the existing density high. So the proposed 4 units on almost an acre would make his client's density close to those nearby. They're also immediately across the street from a busy commercial district. The hardship is the lack of workforce housing and in order to make a dent in that, additional density is needed here.

Joe Laham addresses the Board to say he believes this is an investment in the community. He doesn't think this feels like a residential area—it feels very commercial so these units will not be out of place. He says this is not a profit-making process for him.

Chair Bodensiek opens for public comment. Cliff Carroll of West Barnstable is waiting to comment on a piece of correspondence but is in support of this project. Mark Hansen moves to close public comment. Paul Pinard seconds.

Vote:

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

Nay: None

The Board deliberates. Mark Hansen is still struggling with this density in a single-family residential zone. He would feel better if there was an affordable component to this and feels it is a money-making project, and he is concerned about setting a precedent. Paul Pinard thinks this is a reasonable ask and because it's specifically workforce housing, it doesn't need an affordable component. Aaron Webb asks how it's going to be managed that this is only rented to Mr. Laham's employees. The Chairman answers that the Building Commissioner said staff does not have the capacity to manage that, so it's self-policing.

Attorney Ford requests to withdraw without prejudice his requests of relief from 240-11 E, 240-35 F, and 240-21(A)(9)(A-J & E). The Chairman moves to close the hearing. Mark Hansen seconds.

Vote:

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

Nay: None

Aaron Webb makes a motion to accept Attorney Ford's withdrawal as stated by the applicant. Paul Pinard seconds.

Vote:

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

Nay: None

Chair Bodensiek makes findings:

19 Bearse Rd LLC and 29 Bearse Rd LLC have petitioned for a Variance pursuant to Section 240-11(A) Principal Permitted Uses in the RB Residential District. The Petitioners are proposing to demolish and replace the two existing residential dwellings, combine the two parcels, and construct 4 two-family dwellings. The subject properties are located at 19 and 29 Bearse Road, Hyannis, MA as shown on Assessor's Maps 310 and 311 as Parcels 288 and 039, respectively. They are located in the Residence B (RB) Zoning District.

1. Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. He finds that the two properties are unique in their relationship to the commercial properties across the street, their relationship to the abutting Audi dealership, and the small residential lots in the vicinity.
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. He finds that providing workforce housing is an incentive and benefits the petitioner.
3. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. He does not see a derogation, but rather an enhancement.

Aaron Webb seconds.

Vote:

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

Nay: Mark Hansen

The Chairman makes a motion to grant Variance No. 2023-033 with conditions from Staff Report dated October 31, 2023.

1. Variance No. 2023-033 is granted to 19 Bearse Rd LLC and 29 Bearse Rd LLC pursuant to Section 240-11(A) Principal Permitted Uses in the RB Residential District to demolish and replace the two existing residential dwellings, and construct 4 two-family dwellings at 19 and 29 Bearse Road, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Proposed Site Plans for 19 and 29 Bearse Road, Hyannis, Massachusetts 02601" by Atlantic Design Engineers dated April 14, 2023 with a last revision date of September 15, 2023 sheet 1-6.
3. The eight dwelling units shall be restricted to use for workforce rental housing for employees (and their families) of the Property owner's businesses located in Barnstable. If the Property is proposed to be conveyed or transferred so that the Property is no longer owned or controlled by the current owner of the adjoining Audi dealership properties, then prior to any such transfer or conveyance, the Property owner shall be required to seek a modification of the Variance.
4. The proposed development shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
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.

Paul Pinard says regarding no. 2, it should reflect the change that will be made to the site plan. Aaron Webb makes a motion to approve the conditions as discussed. Paul Pinard seconds.

Vote:

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

Nay: Mark Hansen

Variance No. 2023-033 19 Bearse Rd LLC & 29 Bearse Rd LLC is granted with conditions.

The Board takes a brief recess and reconvenes at 9:17 p.m.

Bayridge Realty, LLC has applied for a Comprehensive Permit pursuant to MGL Ch. 40B §20, 21, 22, and 23. The Applicant proposes to construct 14 housing units (24 bedrooms) within 4 detached buildings and associated parking and site improvements on 3.95 acres for rental purposes in accordance with MGL Ch. 40B, 760 CMR. The unit mix shall consist of 6 one-bedroom units, 6 two-bedroom units, and 2 three-bedroom units. 4 of the units will be restricted as affordable for low- or moderate-income persons. The subject property is located at 900 Old Stage Road, Centerville, MA as shown on Assessor's Map 192 as Parcel 001. It is located in the Residence C (RC) Zoning District.

Chair Bodensiek assigns himself, Paul Pinard, Mark Hansen, Aaron Webb, and Manny Alves.

Attorney Peter Freeman is representing the applicant and is joined by Matt Eddy, a civil engineer with Baxter Nye; Randy Hart, a traffic engineer with VHB; Dennis Kerkado, principal of Bayridge Realty, LLC; and John Lafreniere of Lafreniere Architects, the project architect. Attorney Freeman explains that they have gone through informal Site Plan Review and Mass Housing to obtain a Project Eligibility Letter, establishing that the project is eligible to receive a subsidy. He gives a brief overview of the project: there are 4 proposed buildings, each a 2-story, wood frame building. One of the proposed buildings has a detached garage. They are proposing 27 parking spaces for 14 units. The parcel is 3.95 acres so 14 units is low density. They are proposing a tot lot; a shared enclosed solid waste dumpster; an innovative alternative-level septic system (in response to site location within town's Saltwater Estuary Protection Overlay District); robust landscaping including screening plantings; and on-site stormwater management. This is a single-family district, but he shows a map (page 7 of presentation entitled "ZBA Presentation_900 Old Stage CVille_Kerkado 11_8_23 FINAL") illustrating that there are existing multi-family units on Stage Coach Road near this property already. All 14 units will count toward the town's SHI affordable housing inventory.

Jim Kupfer, Assistant Director, Planning & Development provides some background on 40B's. The Board received a fact sheet on 40B's and a letter that outlined how this project doesn't meet local zoning requirements. Because this is under MGL, this doesn't necessarily need to meet local standards but it needs to evaluate reasoning. He would recommend seeking comments from the Board of Health before rendering a decision. This will require robust findings and conditions, which staff will offer this Board at a subsequent meeting. This is before the Board because Barnstable is not at the required 10% affordable housing (it's at 6.78%) so the town is susceptible to 40B applications.

Matt Eddy walks through the site plan. The existing land is currently wooded aside from a cleared area for the electric easement. It is not mapped as priority habitat and there are no wetland resources. For existing conditions, it's all upland, with 200 ft. of frontage on Old Stage Road. It is not within a groundwater or wellhead protection area. It is in the RPOD. There is no access or driveway as it's undeveloped as of now. It has public water, natural gas, and electric and communication lines. The project area is on the southern side of the parcel and is all outside of the electric easement as required. The proposed lot coverage by buildings is 5.2%, by parking lot is 8.3%, by driveway/roadway is 1.4%, with a total of 14.9% lot coverage, which is low. The proposal has 3 two-story buildings of 4 units each, and a structure with 4 garage bays on ground level with 2 apartment units above. Each of the 4-unit buildings has a 2,500 sq. ft. footprint. Parking meets zoning requirements and the fire department approved of the parking lot. The buildings meet setback requirements. The entrance proposed is off Old Stage Road. Mr. Eddy explains the drainage and grading of the site and the utility distribution plan. They have requested a waiver from sewer 2,640 GPD max flow and will review that with the Board of Health. They will be meeting the same environmental protection requirements with their alternative septic system. The landscape plan will utilize the existing wooded area and will add in screening. John Lafreniere adds that the goal is for these to feel like individual houses using traditional materials. He walks through architectural elements.

Randy Hart explains to the Board that he did a traffic assessment focusing on accident history, traffic generation, and a review of site distance. There have been no crashes in the most recent 5 years of data. There are no Highway Safety Improvement Program (HSIP) clusters found in the vicinity. Trip generation used ITE Trip Generation Rates and looked at morning and afternoon commuter peak hours and Saturday midday. The projection was about 6-7 trips during peak hours, which is minor. The proposal exceeds all stopping side distance and intersection site distance minimums. He recommended clearing some overgrowth near the intersections.

Chair Bodensiek brings it back to the Board for questions. Paul Pinard asks to discuss a letter from an abutter that alleges dumping of toxic materials at the site in the past. Attorney Freeman says he has no knowledge of that but the developer is required to do a 21E study, which will uncover anything like that. Paul Pinard adds that he feels the Board should include language in the conditions requiring upkeep of the existing vegetative buffer. He would also like comments from the Board of Health regarding the requested waivers. The group discusses the Approval Not Required plan that the property went through in the past. Manny Alves asks if this is going to sit above nearby properties. Matt Eddy says no, the buildings will be nestled into the lower area and the height is below the maximum allowed. Jim Kupfer says staff will consider options for handling the possibility of contamination of hazardous materials.

Chair Bodensiek opens for public comment. Jeanne Remmers says she and her husband are abutters who have lived there for 46 years. She remembers debris being dumped on the lot and is opposed to the project with concerns of contamination and wildlife affects. Mary Lynch of 28 Patriot Way speaks with concerns about the increased density. She feels the proposal is out of character for the neighborhood and feels it will add to already congested traffic. Chair Bodensiek says the Board received public comment from Greenwood, Remmers, and Taverna in opposition. The Chairman leaves public comment open.

The Board deliberates. Jim Kupfer says staff will reach out to the requested departments for comments.

Attorney Freeman requests a continuance to January 10. Aaron Webb makes a motion to continue this to January 10, 2024. Mark Hansen seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Mark Hansen, Aaron Webb, Manny Alves

Nay:

2023-034 Bayridge Realty LLC is continued to January 10, 2024.

7:04 PM

Appeal No. 2023-035

Shepley

Hamilton and Lorraine Shepley have petitioned for a Variance pursuant to Section 240-13(E) RF-1 Residential District Bulk Regulations Minimum Yard Setbacks. The Petitioners seek a variance to construct a 24 ft. by 36 ft. detached garage, which would result in a 10 ft. front yard setback where 30 feet is required. The subject property is located at 21 Forest Street, Hyannis, MA as shown on Assessor's Map 266 as Parcel 006 002. It is located in the Residence B (RB) and the Residence F-1 (RF-1) Zoning Districts.

Mark Hansen discloses that he does business with the applicant but does not feel the need to recuse. Chair Bodensiek assigns himself, Paul Pinard, Mark Hansen, Aaron Webb, and Denise Johnson.

Attorney John Kenney is representing the applicant and is joined by Hamilton (Tony) Shepley, Matt Eddy of Baxter Nye Engineering, and Attorney Patrick Nickerson of his office. Attorney Kenney explains that Lot 1 is a 1.75-acre parcel created in 1986. Lot 2 was created in 1989, which allowed frontage on Forest St. It's split zoned with each zone having different setbacks. The lot was designed to have access off Oak St. The Forest St. frontage created a second front yard setback. It would be a 20-ft. front setback if not for the Forest St. entrance, which made it 30 ft. What would have been the side yard setback has become a second front yard setback. It's 2 different zoning districts and 2 different front yard setbacks, making this unique. The garage is proposed to be out of the resource protection areas. Elevation is steep so to move this setback would require a lot of cutting and filling and could create erosion problems. Also, the onsite septic could be compromised by cutting into the bank. There is nowhere else this could go on the lot. The proposed garage will be shielded by tree cover so it will not be seen by neighbors. Many of the nearby homes have 10 ft. setbacks so it is in keeping with the neighborhood. The proposed distance is 12 feet to the building and 10 feet to the overhang.

Chair Bodensiek opens for public comment. There is none. The Chairman moves to close public comment. Mark Hansen seconds.

Vote:

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

Nay: None

Mark Hansen makes findings:

1. Owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. He finds that the topography, having two front yard setbacks, and having a split zone creates a unique hardship.
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. He finds that it's been proposed and shown that there is no other location for this garage to be located without substantial excavation.
3. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. He finds that abutting properties are owned by the petitioners and this is generally a private lot that matches the setbacks of similar nearby properties.

Aaron Webb moves to accept the findings. Herb Bodensiek seconds.

Vote:

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

Nay: None

Mark Hansen says this appeal is subject to Conditions 1-5 from the Staff Report dated October 31, 2023 and revised November 6, 2023. Herb Bodensiek moves to accept those conditions. Aaron Webb seconds.

Vote:

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

Nay: None

Variance No. 2023-035 Shepley is granted with conditions.

7:05 PM

Appeal No. 2023-036

Ganey

John and Elizabeth Ganey have applied for a Special Permit pursuant to 240-94(B) Nonconforming Buildings or Structures Used as a Single- and Two-Family Residences. The Applicants propose to demolish the existing 1-bedroom cottage and patio containing approximately 800 sq. ft. and construct a new cottage and deck containing approximately 918 sq. ft. The subject property is located at 251 Bay Lane, Centerville, MA, as shown on Assessor's Map 166 as Parcel 057. It is located in the Residence D-1 (RD-1) Zoning District.

The Board received a request to continue this appeal due to readvertisement to December 6, 2023. The Chairman moves to accept the request for continuance for readvertisement to December 6, 2023 at 7:01 PM. Aaron Webb seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Mark Hansen, Aaron Webb, Denise Johnson, Manny Alves

Nay: None

Appeal No. 2023-036 Ganey is continued to December 6, 2023.

Correspondence

The Commonwealth of MA Energy Facilities Siting Board sent a Notice of Adjudication and Public Comment Hearing regarding Eversource's proposal to modify electric infrastructure. Cliff Carroll of West Barnstable expresses concern and attempts to discuss the topics on the proposal with the Board. The Board feels it violates Open Meeting Law to discuss the items on that proposal as the notice was listed only as a matter of correspondence and not as an agenda item for discussion.

The Cape Cod Commission sent a cancellation notice for their regularly scheduled meeting on November 9, 2023.

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

The Chairman skips this section. December 6, 2023, January 10, 2024, January 24, 2024

Adjournment

Chair Bodensiek moves to adjourn the meeting. Paul Pinard seconds.

Vote:

Aye: Herb Bodensiek, Paul Pinard, Mark Hansen, Aaron Webb, Manny Alves

Nay: None

Documents Used at this Meeting

- September 27, 2023 and October 11, 2023 minutes
- Attorney Ford's request to continue Appeal No. 2023-014 Ernest J. Jaxtimer
- Attorney Cox's request to continue Appeal No. 2023-010 Arista Hyannis LLC
- 2023-033 19 Bears Rd LLC & 29 Bears Rd LLC application packet
- Staff Report dated October 31, 2023 for Appeal No. 2023-033
- Appeal No. 2023-034 Bayridge Realty, LLC application packet

- Public comment from Greenwood, Remmers, and Taverna in opposition of 2023-034
- Appeal No. 2023-035 Shepley application packet
- Staff Report dated October 31, 2023 and revised November 6, 2023 for Appeal No. 2023-035
- Attorney Kenney's request to continue Appeal No. 2023-036 Ganey
- Commonwealth of MA Energy Facilities Siting Board Notice of Adjudication and Public Comment Hearing
- Cape Cod Commission cancellation notice for November 9, 2023 meeting

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>

APPROVED