

ZONING BOARD OF APPEALS

MINUTES

Wednesday, February 9, 2022

Acting Chair Herb Bodensiek opened the meeting at 7:01 PM with following narrative:

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 Option	Telephone Number Option
https://zoom.us/j/97360246492	888-475-4499 U.S. Toll Free
Meeting ID: 973 6024 6492	Meeting I.D. 973 6024 6492

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.

Chair Jacob Dewey took roll call of members present:

Member	Present via Zoom	Absent
Alves E.		Absent
Bodensiek H.	Present	
Dewey J.		Absent
Hansen M.	Present	
Hirsch D.	Present	
Johnson	Present	
Pinard P.		Absent
Walantis T.		Absent
Webb, Aaron	Present	

Also in attendance, Anna Brigham - Principle Planner and Rachael Toolas– 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.

Response:

No Response

Approval of Minutes

Denise Johnson motioned to accept the January 26, 2022 minutes, Mark Hansen seconded.

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

OLD BUSINESS

Herb Bodensiek reads into the record. Assigned Members: David Hirsch, Herb Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson

7:06 PM

Appeal No. 2021-067

DaSilva

Eduardo DaSilva has petitioned for a Variance from Section 240.14(E) Bulk Regulations in the RF District, minimum rear yard setback. The existing garage is located 13.65' in the rear setback where 15' is required. The subject property is located at 30 Chippingstone Road, Marstons Mills, MA as shown on Assessor's Map 027 Parcel 042. It is located in the Residence F (RF) Zoning District.

The hearing was continued from 1/26/2022.

Member Mark Hansen disclosed his relationship with the applicant. He has done business with him in the past five years. He doesn't think it will interfere with this hearing.

Eduardo DaSilva explained he had an existing garage. He pulled a building permit before he demolished the garage and used an existing plot plan from a renovation of the house. When the footings were poured for the garage during the inspection DaSilva was asked to submit an updated plot plan. It was then discovered there was a discrepancy between the two plans as to the location of the corner of the garage to the rear setback. This triggered a variance hearing.

Brian Florence attended the meeting. This would be a technical error that would have been a by-right situation for the owner if he had sought the building permit first before demolishing the garage. He created a self-imposed hardship which put it outside the Commissioner's ability to grant a building permit. The Building Department has no opposition to the application.

Open to Public Comment

No comment

David Hirsch motioned to close public comment, Mark Hansen seconded.

Vote

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson,

Nay: None

Aaron Webb made a motion for findings from Staff Report dated January 14, 2022.

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. **The Board found the shape of the lot as being unique.**
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. **The Board found that relocating a newly constructed garage would involve substantial financial hardship.**
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. **The Board found that the Petitioner could have constructed the garage as-of-right had the permit been sought prior to demolishing.**

Mark Hansen seconded

Vote on findings

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson,

Nay: None

Aaron Webb moved to grant Variance No. 2021-067 subject to the following conditions:

1. Variance No. 2021-067 is granted to Eduardo DaSilva to allow the newly constructed garage to be located 13.65 feet from the rear yard setback at 30 Chippingstone Road, Marstons Mills MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Foundation Asbuilt Plan MBLU 27-42 30 Chippingstone Road, Marstons Mills, MA by Eastbound Land Surveying, Inc., dated October 20, 2021.
3. The above-described addition shall represent full build-out of the lot. No further additions or accessory structures shall be permitted without approval from the Board.
4. This 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 issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

Vote on Conditions

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson,

Nay: None

GRANTED WITH CONDITIONS

NEW BUSINESS

Herb Bodensiek reads into the record.

7:17 PM

Appeal No. 2022-001 Robert A. Savoie, Trustee Robert A. Savoie Rev Tr

Robert A. Savoie, Trustee of the Robert A. Savoie Revocable Trust has applied for a Special Permit pursuant to Section 240-91 H.3 Developed Lot Protection. The applicant seeks to demolish a 2,529 square foot single family dwelling and construct a 9,409 square foot single family dwelling on a nonconforming lot containing 20,678 square feet. The demolition will include the existing dwelling, shed, and retaining walls. The construction will include the dwelling and retaining walls. The subject property is located at 24 Overlea Road, Hyannis, MA as shown on Assessors Map 287, Parcel 150. It is located in the Residence F-1 (RF-1) Zoning District.

Request to continue to March 9, 2022 received.

Mark Hansen motioned to accept a continuance to be moved to March 9th, Denise Johnson seconded.

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson,

Nay: None

Herb Bodensiek reads into the record.

7:20 PM

Appeal No. 2022-002

Sheree Kay, Trustee for SPK Family Realty Trust

Sheree P. Kay, Trustee for the SPK Family Realty Trust has applied for a Special Permit pursuant to Section 240-131.4(D)(2)(a) Change, Expansion, Alteration of structures and Section 240-131.4 (E) Dimensional Relief. The applicant seeks to construct a 14' x 19' carriage shed for the purpose of housing an antique vehicle, which will encroach into the front yard setback of an unconstructed paper way. The proposed shed will have a setback of 10.6 feet where 15 feet is required. The subject property is located at 74 Summerbell Avenue, Centerville, MA as shown on Assessor's Map 226 Parcel 064. It is located in the Craigville Beach District Craigville Village (CBDCV) in the District of Critical Planning Concern (DCPC).

Request to continue to March 9, 2022 received.

Mark Hansen motioned to accept a continuance to March 9, 2022, Aaron Webb seconded.

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Correspondence

Matters Not Reasonably Anticipated by the Chair

None

Upcoming Meetings

February 23, 2022, March 9, 2022, March 23, 2022

Adjournment

7:24 PM Mark Hansen moved to adjourn, Denise Johnson seconded.

Vote:

Aye: David Hirsch, Herbert Bodensiek, Mark Hansen, Aaron Webb, Denise Johnson

Nay: None

Respectfully Submitted,

Rachael Toolas
Administrative Assistant