

# Zoning Board of Appeals

## MINUTES

Wednesday, October 25, 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, October 25, 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
<a href="https://townofbarnstable-us.zoom.us/j/89407793072">https://townofbarnstable-us.zoom.us/j/89407793072</a>	US Toll-free 888 475 4499
Meeting ID: 894 0779 3072	Meeting ID: 894 0779 3072

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](mailto: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](mailto:anna.brigham@town.barnstable.ma.us).

### Call to Order

Chair Dewey calls the meeting to order at 7:09 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 in attendance is Anna Brigham, Principal Planner and Genna Ziino, Administrative Assistant.

### Notice of Recording

The Chairman reads: 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

None.

**Old Business**

**7:00 PM**

**Appeal No. 2023-020**

**Davis**

Jessica E. and Emily C. Davis have petitioned for a Variance pursuant to Section 240-14E. Residential District Bulk Regulations Minimum Front and Side Yard Setbacks. The Petitioners seek to reduce the 15-foot side yard setback requirement to 13.2 feet and to reduce the 30-foot front yard setback to 26.6 feet to construct an attached garage with storage area. The subject property is located at 190 Blackthorn Road, Marstons Mills, MA as shown on Assessor's Map 047 as Parcel 034. It is located in the Residence F (RF) Zoning District and the Resource Protection Overlay District (RPOD). Continued from September 13, 2023.

Chair Dewey assigns himself, Herb Bodensiek, Mark Hansen, Aaron Webb, and Larry Hurwitz.

Attorney John Kenney is representing the applicant and is joined by Attorney Patrick Nickerson and the applicants. Attorney Kenney explains that his clients are looking to construct a 24 ft. x 30 ft. garage. A unique topographical feature of this lot is that it fronts on 3 roads: Jasper Road, Clover Lane, and Blackthorn Road. It was built to be accessed by Jasper Road, but the address is Blackthorn Road. The house doesn't face either road and is at an odd angle on the lot. If the Board were to enforce the ordinance, his clients would not be able to build a garage. There are mature trees on the lot that create privacy for the applicants and neighbors, and it would be costly to build the proposed garage anywhere else on the lot—the proposed area is clear of trees. It would also require them to reconfigure their existing home, utility lines, and driveway.

He suggests the relief can be granted without substantial detriment. They are asking for relief for a setback encroachment of 13.2 ft. where 15 ft. is required for the back right corner of the garage, and for 26.6 ft. where 30 ft. is required for the front right corner of the garage. There will still be a significant tree buffer between the proposed garage and the most impacted neighbor. His clients want to use Jasper Road as the main entrance for their property as it is less busy than Blackthorn Road. There will be no increase in intensity of use. They will be using identical materials and color scheme as their existing house. They have gotten letters of support from all neighbors with any view of this, including the neighbors affected by the 13.2 ft. setback.

**Chair Dewey brings it back to the Board for questions.** Mark Hansen believes this is the minimum width for a garage. He asks if the applicants would still need a variance if they did not include storage and the staircase on the proposed garage. Attorney Kenney answers yes.

**Chair Dewey opens for public comment.** He reads that the Board received letters in support from Haskell, Miller, Williams, Corsino, Trapp, Cox & Callahan, and Driscoll. The Chairman moves to close public comment. Mark Hansen seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Larry Hurwitz**

**Nay: None**

**Mark Hansen makes findings:**

Jessica E. and Emily C. Davis have petitioned for a Variance pursuant to Section 240-14E. Residential District Bulk Regulations Minimum Front and Side Yard Setbacks. The Petitioners seek to reduce the 15-foot side yard setback requirement to 13.2 feet and to reduce the 30-foot front yard setback to 26.6 feet to construct an attached garage with storage area. The subject property is located at 190 Blackthorn Road, Marstons Mills, MA as shown on Assessor's Map 047 as Parcel 034. It is located in the Residence F (RF) Zoning District and the Resource Protection Overlay District (RPOD).

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 placement of the lot as a corner lot with frontage on 3 roads and the angle of the dwelling itself poses a unique circumstance for both the land and the structure.
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 would be a financial hardship through the necessity of major reconstruction to the home to move it, and without this relief they are unable to construct the structure as there are no other locations.
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 the 7 letters of support from neighbors demonstrate this, and the size and scale fit with the neighborhood.

Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Larry Hurwitz**

**Nay: None**

Mark Hansen reads that the appeal is subject to Conditions 1-4 from the Staff Report dated August 24, 2023.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Larry Hurwitz**

**Nay: None**

**Variance No. 2023-020 Davis is granted with conditions.**

**7:01 PM**

**Appeal No. 2023-019**

**Vilsaint**

Kevin Y. and Corrie L. Vilsaint have applied for a Special Permit in accordance with Section 240-47.2 Accessory Dwelling Units (ADUs). The Applicants seek to remove and replace an existing accessory structure with a new accessory dwelling unit (ADU). The Applicants also seek to modify Special Permit No. 2020-038 to allow further build out of the property for the accessory dwelling unit and additions to the principal dwelling. The subject property is located at 358 Flint Street, Marstons Mills, MA as shown on Assessor's Map 101 as Parcel 121. It is located in the Residence F (RF) Zoning District. Members assigned: Dewey, Webb, Bodensiek, Pinard and Johnson. Continued from August 23, 2023.

The Board received a request to continue this to December 6, 2023. Chair Dewey makes motion to continue to December 6, 2023 at 7 p.m. Mark Hansen seconds.

**Vote:**

**Aye: Jake Dewey, Aaron Webb, Herb Bodensiek, Mark Hansen, Larry Hurwitz, Manny Alves**

**Nay: None**

**Appeal No. 2023-019 Vilsaint is continued to December 6, 2023.**

**7:02 PM**

**Appeal No. 2023-029**

**E.M. Crosby Boatworks, Inc.**

E.M. Crosby Boatworks, Inc. has applied for a Special Permit pursuant to Section 240-94 A and 240-94 B Change or Expansion of a Preexisting Nonconforming Use. The Applicant seeks to change the use from a landscaping business to a boat storage business. The Applicant proposes to store up to 75 boats on the property. The Applicant also seeks to construct an approximately 30 ft. by 80 ft. structure covered with a clear membrane to be utilized for the storage of wooden sailboats. The subject property is located at 140 Osterville West Barnstable Road, Osterville, MA as shown on Assessor's Map 120 as Parcel 051-002. It is located in the Residence C (RC) Zoning District and the Wellhead Protection (WP) Overlay District. Continued from October 11, 2023. Members assigned: Bodensiek, Hansen, Webb, Johnson, and Alves.

Chair Dewey discloses that he owns a boat business but does not feel the need to recuse himself. Because no presentation was made at the prior hearing, Chair Dewey Mullins in to replace Denise Johnson, who is not present. The applicant has no objection.

Attorney David Lawler is joined by the applicant he is representing, Ned Crosby. Attorney Lawler explains that the lot is subject to a Land Court case that determined the lot was preexisting nonconforming. Now, they're trying to move from one nonconforming use to another. The standard being that the proposed use is not more detrimental than the existing use. Mr. Crosby's business will be less detrimental than the existing landscaping business with respect to smell, noise, sound, activity level, etc. They've met with abutters twice to assuage concerns. The property has a 20 ft. vegetative buffer where 10 ft. is required in the upper right corner. They do not intend to change that. The driveway is paved and there's a garage with a living unit in it. The use will be for boat storage only—no boat work will be done at the property. For this property, when a boat is dropped off, it will be parked and then not touched until the spring so the use is few and far between. Mr. Crosby demonstrated to the neighbors his truck and largest trailer to ensure it is not noisy or disruptive. They do not intend to floodlight the boat area. No customers will be at the yard. They have reduced the proposed membrane structure to 60 ft. x 30 ft.; it will be enough space to store 6 Wianno Seniors. The existing greenhouse will be used for storage of masts, tillers, and other wooden parts. There would also be some motorboats stored on the property. Attorney Lawler suggests that the use under the law is substantially less intrusive on the neighborhood than the prior use.

Attorney Lawler explains that this has been through informal Site Plan Review with a hand-drawn site plan—they are still in the process of getting an engineer's official site plan. His client wants to move the process along because they want to store boats for this winter. He suggests the Board add a condition that they obtain formal Site Plan Review approval.

**Chair Dewey brings it back to the Board for questions.** Larry Hurwitz asks if there will be any fuel storage onsite. Attorney Lawler answers that there will be no fuel other than what may be left in a boat at the end of the season. Hours of operations would be between 7:30 a.m. and 5 p.m. on the weekdays and between 9 a.m. and 4 p.m. on the weekends. Regarding capacity, they are requesting a maximum of 75 boats and are agreeing not to store anything bigger than 30 ft. The surfaces are dirt, and they may put some gravel down on soft spots but nothing pervious. Some boats will be brought in on trailers and put on stands. Chair Dewey asks if this is falling under 240-94A or B. Attorney Lawler says it's 240-94A only, for change of use with no expansion. The group discusses whether this is an expansion of use or not. The Board expresses concern that this has not gone through Site Plan Review yet and there is no completed site plan or written acceptance from the fire department. Chair Dewey asks if the boats will have copper-based paints on them. Attorney Lawler says some will.

**Chair Dewey opens for public comment.** Rob Zindman of 250 Hickory Hill Circle addresses the Board to say he and other abutters met with the applicant and most of the neighbors felt their concerns were addressed. Rife Boston of 261 Hickory Hill Circle addresses the Board to say he believes this proposal will be a more benign use of the property than in the past.

**The Board deliberates.** Aaron Webb thinks Attorney Lawler has done his due diligence and the neighbors are in support of this change of use. The Board again expresses concern that there is no formal site plan, so they would be approving this without ever reviewing a site plan. Attorney Lawler has not heard from Site Plan Review whether the submitted site plan has been accepted or denied. The Board discusses the fire concerns and whether the access road is wide enough. The group discusses the membrane structure. Attorney Lawler says it's up to the Building Commissioner to determine if it's a temporary structure but even if it's permanent, they meet bulk requirements for it. The group discusses whether the applicant can take down trees or needs to operate in the footprint of the preexisting nonconforming use. Attorney Lawler disagrees and believes the standard is whether this use will be more detrimental, according to the law. Chair Dewey makes a motion to close public comment. Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Manny Alves**

**Nay: None**

The Board discusses the need to condition this very carefully. They discuss options with Attorney Lawler.

**Manny Alves makes findings:**

E.M. Crosby Boatworks, Inc. has applied for a Special Permit pursuant to Section 240-94 A and 240-94 B Change or Expansion of a Preexisting Nonconforming Use. The Applicant seeks to change the use from a landscaping business to a boat storage business. The Applicant proposes to store up to 75 boats on the property. The Applicant also seeks to construct an approximately 30 ft. by 80 ft. structure covered with a clear membrane to be utilized for the storage of wooden sailboats. The subject property is located at 140 Osterville West Barnstable Road, Osterville, MA as shown on Assessor's Map 120 as Parcel 051-002. It is located in the Residence C (RC) Zoning District and the Wellhead Protection (WP) Overlay District.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-94 A and B allow for 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. The frequency of use of this lot will be reduced substantially. Comments from abutters in favor have supported this point.
3. A formal site plan review has not been conducted. The approval of this Board is conditioned on a favorable review from Site Plan Review, including input from the fire department. Absent such review, this matter will need to be brought before the Board for additional proceedings.
4. The proposed use will result in no more parking or traffic than the existing use; no increase in noise, dust, or odors; no increase in hours of operation or number of employees or tenants; and no increase in gross floor area. The proposed use will conform to setbacks, will be on the same site as the current nonconforming use, and will not expand beyond the current zoning district.
5. The proposed use and expansion will be on the same lot as occupied by the nonconforming use on the date it became nonconforming.
6. The proposed new use will not be expanded beyond the zoning district in existence on the date it became nonconforming.

Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Manny Alves**

**Nay: None**

The Board and Attorney Lawler discuss whether the applicant is willing to abandon the current use of landscaping. The Chair suggests conditioning it that it would have to come back to the Board to change the use back to landscaping.

**Manny Alves reads conditions 1-6 from the Staff Report dated October 25, 2023 with some alterations and additional conditions:**

1. Special Permit No. 2023-029 is granted to E.M. Crosby Boatworks, Inc. pursuant to Section 240-94 A and 240-94 B Change or Expansion of a Preexisting Nonconforming Use. The Applicant seeks to change the use from a landscaping business to a boat storage business. The Applicant proposes to store up to 75 boats on the property. The Applicant also seeks to construct an approximately 30 ft. by 80 ft. structure covered with a clear membrane to be utilized for the storage of wooden sailboats. The subject property is located at 140 Osterville West Barnstable Road, Osterville, MA
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan for John Viera" by Warwick & Associates, Inc dated September 6, 2023 with the last revision date of October 23, 2023 whereby the proposed 20 ft. limit of work shall remain substantially intact with regard to vegetation.
3. The proposed alteration of use shall represent full build-out of the lot. No further changes shall be permitted without approval from the Board.
4. The use is for boat storage only. No additional uses are allowed including but not limited to maintenance and repair of boats without an amendment to this permit.
5. No more than 75 boats shall be stored on site at any time. No boat shall exceed 30 feet in length.
6. 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 Special Permit must be exercised within two years, unless extended.
7. The hours of operations 7:30-5 on weekdays and 9-4 on weekends not to be exceeded.
8. No flood lighting on the property.
9. No rack storage.
10. No long-term storage or maintenance of vehicles on the property.
11. Applicant must receive approval from formal Site Plan Review.
12. Building height, including the greenhouse, is not to exceed 16 feet.
13. No customers will do any work on the property.
14. The use on site remains in compliance with wellhead restriction.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Aaron Webb, Manny Alves**

**Nay: None**

Variance No. 2023-029 E.M. Crosby Boatworks is granted with conditions.

**New Business**

**7:03 PM**

**Appeal No. 2023-030**

**Van Oossanen**

Dennis and Lisa Van Oossanen have applied for a Special Permit pursuant to Section 240-92B Nonconforming Buildings or Structures Used as Single- and Two-Family Residences. The Applicants seek to construct an addition, bringing the gross floor area to 4,259 sq. ft. where the existing gross floor area is 2,246 sq. ft. The subject property is located at 45 Vineyard Road, Cotuit, MA as shown on Assessor's Map 016 as Parcel 001. It is located in the Residence F (RF) Zoning District.

Chair Dewey assigns himself, Herb Bodensiek, Mark Hansen, Manny Alves, and Larry Hurwitz.

Attorney Michael Schulz is representing the applicants. He is joined by architect Tim Luff and the property owner, Dennis Van Oossanen. This is a 1.51-acre lot with a single-family dwelling that was constructed in 1970. It is consistent with the neighborhood in terms of size and setbacks. There were no height or story limitations when this was built in 1970, and it was conforming in all respects at that time. The addition meets 240-92 A1 but does not meet 240-92 A2 based on the story requirement, so requires relief from this Board. This addition would not be more detrimental than the existing structure based on the site plan. The front yard setback is greater than 30 ft. and meets all requirements of the RF District. The addition would extend the preexisting nonconforming building in its existing stories—if they were to conform, it would be architecturally strange. They have submitted letters of support from their neighbors.

**Chair Dewey brings it back to the Board for questions.** The Board clarifies that only the story is the issue—this conforms in terms of height.

**Chair Dewey opens for public comment.** He reads that the Board received letters from Coppola and Swissa in support. The Chairman moves to close public comment. Mark Hansen seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Larry Hurwitz, Manny Alves**

**Nay: None**

**Manny Alves makes findings:**

Dennis and Lisa Van Oossanen have applied for a Special Permit pursuant to Section 240-92B Nonconforming Buildings or Structures Used as Single- and Two-Family Residences. The Applicants seek to construct an addition, bringing the gross floor area to 4,259 sq. ft. where the existing gross floor area is 2,246 sq. ft. The subject property is located at 45 Vineyard Road, Cotuit, MA as shown on Assessor's Map 016 as Parcel 001. It is located in the Residence F (RF) Zoning District.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 B. allows for the alteration of a nonconforming dwelling on a nonconforming lot.
2. Site Plan Review is not required for single-family residential dwellings.
3. 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. The project will not encroach into setbacks, and the applicant has submitted evidence of neighbor support.
4. The proposed alteration would not be substantially more detrimental to the neighborhood than the existing dwelling. The applicant will be maintaining the current height of the building.

Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz**

**Nay:**

Manny Alves reads that the appeal is subject to conditions 1-6 from the Staff Report dated October 12, 2023. Attorney Schulz has two minor changes: on no. 2, add, "...and plans prepared by Archi-tech Associates dated June 7, 2023." And on no. 3 they request to change to, "The proposed redevelopment shall represent full buildout for the principal dwelling. Further expansion of the principal dwelling is prohibited without prior approval from the Board." The Board has no objections to those changes.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz**

**Nay:**

**Special Permit No. 2023-030 Van Oossanen is granted with conditions.**

**7:04 PM**

**Appeal No. 2023-031**

**Green and Lee, Trustees**

Randal Green and Richard Lee Jr., Trustees of the Alan and Sherry Green Revocable Trust have petitioned for a Variance pursuant to Section 240-7 (C) and (D) and 240-11 Bulk Regulations Minimum Lot Acreage and Shape Factor, and 240-91 Undersized Lots. The Petitioners seek a "land swap" to change the configuration of the 2 existing lots without changing the acreage of each resulting lot. The subject property is located at 99 Center Lane, Centerville, MA as shown on Assessor's Map 251 as Parcel 016. It is located in the Residence D-1 (RD-1) Zoning District.

Chair Dewey assigns himself, Herb Bodensiek, Mark Hansen, Manny Alves, and Larry Hurwitz. The Chairman also reads into the record Appeal No. 2023-032 because the Petitioner has requested to present for both appeals together.

**7:05 PM**

**Appeal No. 2023-032**

**Green**

Randal Green has petitioned for a Variance pursuant to Section 240-7 (C) and (D) and 240-11 Bulk Regulations Minimum Lot Acreage and Shape Factor, and 240-91 Undersized Lots. The Petitioner seeks a "land swap" to change the configuration of the 2 existing lots without changing the acreage of each resulting lot. The subject property is located at 101 Center Lane, Centerville, MA as shown on Assessor's Map 251 as Parcel 220. It is located in the Residence D-1 (RD-1) Zoning District.

Attorney Jeff Johnson is representing the applicant. He provides background: there are two existing dwellings. 99 Center Lane was reconstructed in 2000 and 101 Center Lane was constructed in 2013 and 2014. He has a correction for the Staff Report, which is that 101 Center Lane has 3 bedrooms. 99 Center Lane has 4 bedrooms. The Trust has decided to sell 101 Center Lane. Redrawing property lines would make the use of an easement for the garage and driveway not necessary, and would make the property easier to sell. What's unique about this is that the existing garage structure used to be a cottage. They are not increasing the use; the number of bedrooms will remain the same.

**Chair Dewey brings it back to the Board for questions.** Mark Hansen clarifies that currently there is an easement off Center Lane that allows use of the garage. Attorney Johnson confirms this; this swap would take the easement away and put it all onto one lot to make the lot more attractive to buyers. The sizes of the lots would be identical to what exists now—the only true difference is 99 Center Lane giving up the lakefront area on its lot. Attorney Johnson says they meet all setbacks with the new property line except the existing garage, which is a preexisting structure from 1958. He believes this land swap will clear this situation up.

**Chair Dewey opens for public comment.** The Board has not received any written public comment. Randy Green says he heard from neighbors and their association in support. Chair Dewey moves to close public comment. Mark Hansen seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz**

**Nay:**

**The Board deliberates.** Attorney Johnson suggests the Board consider the unique structure of the garage and also the easement.

**Mark Hansen makes findings for both appeals simultaneously:**

2023-031: Randal Green and Richard Lee Jr., Trustees of the Alan and Sherry Green Revocable Trust have petitioned for a Variance pursuant to Section 240-7 (C) and (D) and 240-11 Bulk Regulations Minimum Lot Acreage and Shape Factor, and 240-91 Undersized Lots. The Petitioners seek a "land swap" to change the configuration of the 2 existing lots without changing the acreage of each resulting lot. The subject property is located at 99 Center Lane, Centerville, MA as shown on Assessor's Map 251 as Parcel 016. It is located in the Residence D-1 (RD-1) Zoning District.

2023-032: Randal Green has petitioned for a Variance pursuant to Section 240-7 (C) and (D) and 240-11 Bulk Regulations Minimum Lot Acreage and Shape Factor, and 240-91 Undersized Lots. The Petitioner seeks a "land swap" to change the configuration of the 2 existing lots without changing the acreage of each resulting lot. The subject property is located at 101 Center Lane, Centerville, MA as shown on Assessor's Map 251 as Parcel 220. It is located in the Residence D-1 (RD-1) 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 garage structure currently located in one parcel now presents an easement and poses an issue with regard to a clean title for the sale of the lakefront property.
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. He finds that not making this land swap would make the lakefront property less attractive to potential home buyers. Additionally, this will clear up what is currently a potential liability for the current owner.
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 the land swap does not change the nonconforming or conforming nature of the properties as they exist and there is no new construction proposed.

Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz**

**Nay: None**

Mark Hansen reads that the appeals are subject to conditions 1, 2, 4, and 5 from the Staff Report dated October 12, 2023. With input from Attorney Johnson, condition no. 3 is changed to "No expansion on 99 Center Lane beyond 4 bedrooms and on 101 Center Lane of 3 bedrooms without further relief from this Board."

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz**

**Nay: None**

Variance No. 2023-032 Green is granted with conditions.

#### Correspondence

None.

#### Matters Not Reasonably Anticipated by the Chair

Manny Alves asks for clarification about whether applicants need a negative determination before they come to this Board. It is explained that it's frequently a denied building permit, but there are also times where engineers or attorneys know something will be denied and so come to the Board before being actually denied.

#### Discussion

Board discussion about proposed 2024 meeting schedule: Chair Dewey believes it makes sense to provide both in-person and Zoom meetings, so people of either preference are accommodated. The other Board members agree.

#### Upcoming Hearings

November 8, 2023, December 6, 2023

#### Adjournment

Mark Hansen makes a motion to adjourn. Herb Bodensiek seconds.

#### Vote:

**Aye:** Jake Dewey, Herb Bodensiek, Mark Hansen, Manny Alves, Larry Hurwitz

**Nay:** None

#### Documents Used at This Meeting

- 2023-020 Davis application packet
- Public comment from Haskell, Miller, Williams, Corsino, Trapp, Cox & Callahan, and Driscoll in support of 2023-020
- Staff Report dated August 24, 2023 for Appeal No. 2023-020
- Attorney Kirrane's request to continue Appeal No. 2023-019 Vilsaint
- 2023-029 E.M. Crosby Boatworks, Inc. application packet
- Staff Report dated October 25, 2023 for Appeal No. 2023-029
- 2023-030 Van Oossanen application packet
- Public comment from Coppola and Swissa in support of 2023-030
- Staff Report dated October 12, 2023 for Appeal No. 2023-030
- 2023-031 Green and Lee, Trustees application packet
- 2023-032 Green application packet
- Staff Reports dated October 12, 2023 for Appeals No. 2023-031 and 2023-032

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>