



# Town of Barnstable

## Zoning Board of Appeals



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### 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](mailto:elizabeth.jenkins@town.barnstable.ma.us)  
Anna Brigham – Principal Planner – [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us)  
Carol Puckett – Administrative Assistant – [carol.puckett@town.barnstable.ma.us](mailto:carol.puckett@town.barnstable.ma.us)

## Minutes

### Wednesday, June 10, 2020

***As a quorum has been met AT 7:00 PM, Alex Rodolakis – Chair, reads the following into the record:***

In accordance with the Governor's Order Implementing a Phased Reopening of Workplaces and Imposing Workplace Safety Measures to address COVID-19 (COVID-19 Order No. 33) this meeting will be closed to the public to avoid group congregation. 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 accessed 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:

#### Zoom Link:

<https://zoom.us/j/92473064382>

Meeting ID: 924 7306 4382

#### Or by calling:

888-475- 4499 US Toll-free

Meeting ID: 924 7306 4382

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 the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Anna Brigham: [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us) so that they may be displayed for remote public access viewing.

Access to meeting material is available by calling 508-862-4682 or emailing [anna.brigham@town.barnstable.ma.us](mailto:anna.brigham@town.barnstable.ma.us)

Meeting material will also be available at <https://www.townofbarnstable.us/boardscommittees/ZoningBoard/> prior to the meeting.

#### Topics to be discussed:

#### Call to Order

Introduction of Board Members

**Alex Rodolakis takes the following Roll Call Attendance:**

Member	Zoom	Conference Call
Alex Rodolakis - Chair	x	
David Hirsch – Vice Chair	x	
Herb Bodensiek – Clerk		x
Jake Dewey – Regular Member	x	
Paul Pinard – Regular Member		x
Mark Hansen – Associate Member	*Absent	
Todd Walantis – Associate Member	x	
Bob Twiss – Associate Member	x	
Anna Brigham – Principal Planner	x	
Carol Puckett – Administrative Assistant		x
Steve Cook	x	
Michael Princi, Esq	x	
Natalie Pettinger	x	
Thomas and Nancy McCarthy	x	

**Alex reads the following in to the record 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**

November 13, 2019, December 11, 2019, January 8, 2020, January 22, 2020, February 12, 2020, March 11, 2020

**Motion to approve the minutes of November 13, 2019 is made by David Hirsch and seconded by Paul Pinard**

**Roll Call Vote:**

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen	*Absent	Absent	Absent
Todd Walantis	x		
Bob Twiss	x		

**\*Mark Hansen logs in.**

**Motion to approve the minutes of December 11, 2019 is made by David Hirsch and seconded by Herb Bodensiek**

**Roll Call Vote:**

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen	x		
Todd Walantis	x		

Bob Twiss	x		
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**Motion to approve the minutes of January 8, January 22, February 12, and March 11, 2020 is made by David Hirsch and seconded by Paul Pinard**

**Roll Call Vote**

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen	x		
Todd Walantis	x		
Bob Twiss	x		

**Alex announces that Windmill Square, LLC will be withdrawing and Attorney Mike Princi is here to represent that fact**

**New Business**

**7:03 PM**

**Appeal No. 2020-023**

**Windmill Square, LLC.**

Windmill Square, LLC., has petitioned for a Variance in accordance with Section 240-35.F(2)(u) and (v)- GP Groundwater Protection Overlay District Regulations, 240-53 – Landscape Requirements for Parking Lots, 240-53(B) Landscape Requirements for Parking Lots in Office and Commercial districts and Section 240-56 – Schedule of Off Street Parking Requirements. The Petitioner is seeking to construct a 19,072 square foot retail building and associated site improvements, including a customer pick up and loading area. The subject property is located at 1174 Pitcher’s Way, Hyannis, MA as shown on Assessor’s Map 273 as Parcel 123. It is located in the Business (B) Zoning District and Groundwater Protection (GP) Overlay Zoning District.

Members assigned tonight: **Alex Rodolakis, David Hirsch, Herb Bodensiek, Paul Pinard, Jake Dewey**

**Attorney Michael Princi states that he sent the letter today which Alex acknowledges. Attorney Princi notes that this project had been before the Cape Cod Commission (CCC) and was taken up by an appeal by Ms. Pettinger who is also present tonight. Attorney Princi explains that they had withdrawn at one time because of the plan that was before this board was before the CCC but that there were some technical issues. Therefore, they put together a new plan with adjustments and when considered and with some discussion they decided to respectfully request to withdraw without prejudice and then will decide what they will do.**

**Motion to withdraw without prejudice is made by David Hirsch and seconded by Paul Pinard**

**Roll Call Vote by voice:**

**AYE: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Paul Pinard**

**NAY: None**

**WITHDRAWN WITHOUT PREJUDICE**

**Alex reads the following into the record:**

**Old Business**

**7:00 PM**

**Appeal No. 2020-016**

**McCarthy**

Thomas J. and Nancy J. McCarthy have applied for a Special Permit pursuant to Section 240.47.1.B (4) – Family Apartments. The Applicants are proposing to remove an existing three-car detached garage down to the foundation and re-construct the 1,498 square foot detached garage with deck. A family apartment is to be located on the second floor of the proposed garage and consist of 683 square feet. The subject property is located at 8 Marchant’s Mill Road, Hyannis (Hyannisport), MA as shown on Assessor’s Map 266 as Parcel 029. It is located in the Residence F-1 (RF-1) Zoning District.

Continued from March 25, 2020 and April 8, 2020. No members assigned, no testimony taken.

**Members assigned tonight: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Paul Pinard**  
**Representative: Steve Cook from Cotuit Bay Designs with the McCarthy's on ZOOM.**

**Steve Cook gives summary of relief being sought. He states the applicants want to take the existing garage down to the foundation, rebuild and turn the second floor of the proposed garage into a family apartment. The family apartment will consist of one bedroom, a kitchen, bath, living and laundry area. The main house has three bedrooms and therefore they will be installing in a new septic system that was approved by the Board of Health (BOH) for a fourth bedroom. There will be a deck on the west side. The stairs are a straight run but might put a landing and a small change they discussed today. The applicants might want to do something with the main house and would like to leave the option of further buildout open.**

**Alex asks who will be living in this apartment. Mr. McCarthy wants it available for guests and family members and states that this is a summer home. He states that they don't have any intention of renting the apartment out and will provide an affidavit. He explains that the main house has three small bedrooms on the second floor.**

**Alex explains that the family apartment is for a family member(s) to live there and not for a free flowing guest house. He believes that if a guest house is the goal that the kitchen would be a problem. Alex doesn't have a problem with the concept of a guest house but once you put a kitchen in it, it converts it into something else. Alex is hesitant to grant this knowing that this will not be used as a family apartment as outlined in the ordinance and notes that this must be their primary main residence.**

**Alex asks for member comments. David Hirsch doesn't know why they aren't looking for just a guest quarters.**

**Alex suggests a continuance in order for the applicant/representative to consult with the building inspector as to what they can have in a family apartment versus a guest suite.**

**Steve Cook asks what Anna thinks of this since she had spoken with the Building Commissionr. Anna states that she had thought that this would be for a family member.**

**Mr. McCarthy will run it by the building department for their opinion on it.**

**Mr. McCarthy asks to continue to July 8, 2020 at 7:00 pm.**

**Motion is made by Alex Rodolakis and seconded by David Hirsch to continue this matter to July 8, 2020 at 7:00 PM**

**Roll Call Vote:**

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen			
Todd Walantis			
Bob Twiss			

## **CONTINUED TO JULY 8, 2020 AT 7:00 PM**

**Alex reads the following into the record:**

**7:01 PM**

**Appeal No. 2020-013**

**Goff, as Trustee**

Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, has applied for a Special Permit in accordance with Section 240-92 Nonconforming building or structures used as single and two family residences. The Applicant is requesting to demolish an existing accessory structure and construct a one-bedroom accessory cottage. The subject property is located at 511 Wianno Avenue, Osterville, MA as shown on Assessors Map 162 as Parcel 004. It is located in the Residence F-1 (RF-1) Zoning District. Continued from March 11, 2020, March 25, 2020 and April 8, 2020.. No members assigned, no testimony taken.

**Members assigned tonight: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Paul Pinard**

**Representative: Michael Schulz, Esq. who gives summary of relief being sought. He states that he filed a letter on June 2, 2020 which the board has received. He goes over his memo explaining the exhibits. He also notes that there is a letter of support which was submitted by the Morris' and believes that a letter from the Crosby's was mailed supporting this also. Attorney Schulz notes that he has looked at aerial photographs which show a structure in 1968. However, at that time, there was no requirement in regards to setbacks to paper roads.**

**Paul Pinard gets clarification as to where the Morris' live in respect to the subject property.**

**Mark Hansen knows that paper roads have been a problem, however, he asks if there was any discussion or room on the lot in order to bring the structure further from the road. Attorney Schulz states that they were trying to maintain spatial awareness on the property. They are requesting a SP because of the paper road and because the Building Commissioner wouldn't allow the project without it.**

**Jake Dewey asks that if they are determining under 240-92.B. that this is a single or two family structure? He does not see any evidence of that.**

**Attorney Schulz believes it is how the staff (Anna Brigham) has interpreted it. They discuss what provision it would come under. Jake isn't sure how 240-92 would apply. Alex asks about the paper road. Attorney Schulz states that it is not a town way. Alex asks if, there wasn't an encroachment issue, could they build it as of right. Attorney Schulz believes so.**

**Alex asks for public comment. No one speaks.**

**The board deliberates. David Hirsch thinks it is a straight forward approach to a guest house. Herb Bodensiek is inclined to be in favor as well as Jake and Paul. Mark Hansen notes that they are attempting to bring the structure away from the paper road.**

**Alex notes that although they haven't received the letter from the other abutters, he is taken evidence that a letter was sent.**

**Jake Dewey makes findings:**

**Special Permit Findings**

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- 1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences allows for alterations.**
- 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.**
- 4. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.**

**Roll Call Vote:**

<b>Member</b>	<b>AYE</b>	<b>NAY</b>	<b>ABSTAIN</b>
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen			
Todd Walantis			
Bob Twiss			

**Jake Dewey make a motion to grant relief being proposed with the following conditions:**

**Conditions**

1. Special Permit No. 2020-013 is granted to Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, to demolish an existing nonconforming accessory structure and construct a nonconforming accessory cottage at 511 Wianno Avenue, Osterville.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 511 Wianno Avenue Barnstable (Osterville) Mass" prepared by Sullivan Engineering & Consulting, Inc dated February 13, 2020.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwellings (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. 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 issuance building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen			
Todd Walantis			
Bob Twiss			

**GRANTED WITH CONDITIONS**

**Correspondence**

**Matters Not Reasonably Anticipated by the Chair**

**Upcoming Hearings**

June 24, 2020, July 8, 2020 and July 22, 2020

**Adjournment**

Motion is made by Alex Rodolakis and seconded by Paul Pinard to adjourn

Member	AYE	NAY	ABSTAIN
Alex Rodolakis	x		
David Hirsch	x		
Herb Bodensiek	x		
Jake Dewey	x		
Paul Pinard	x		
Mark Hansen	x		
Todd Walantis	x		
Bob Twiss	x		