

**Zoning Board of Appeals
MINUTES
Wednesday, December 7, 2022
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 December 7, 2022, 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/86490861655	US Toll-free 888 475 4499
Meeting ID: 864 9086 1655	Meeting ID: 864 9086 1655

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

Chair Jacob Dewey calls the meeting to order 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

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

October 26, 2022 and November 9, 2022 are up for approval. Paul Pinard makes a motion to approve both. Mark Hansen seconds.

Vote:

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

Nay: None

Old Business**7:00 PM****Appeal No. 2022-029****Leveroni**

Maureen Leveroni has applied for a Special Permit pursuant to Section 240.91 (H)(3) Nonconforming Lot and requests a finding under M.G.L. Chapter 40A Section 6 regarding compliance with floor area ratio. The Applicant proposes to demolish two existing single story structures and replace the structures with one, *two story structure on the same or smaller footprint. The subject property is located at 14 Beale Way, Barnstable, MA as shown on Assessor's Map 279 Parcel 014. It is located in Residence F-1 (RF-1) Zoning District. Continued from June 8, 2022, and July 13, 2022, August 24, 2022, October 12, 2022.

*Revised to 1 story

Sitting on this is all regular members: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, and Aaron Webb.

Attorney Paul Tardif is representing the applicant. He is joined by Maureen Leveroni, the applicant. He provides some background: the lot contains 4,293 square feet and is improved with two, one-story structures built in about 1950. The property has frontage on Beale Way and on Route 6A. The existing structures are situated 9.5 feet from Beale Way, 5.7 feet from the northerly side boundary, and 2.9 feet from the easterly rear boundary. The current floor area ratio is at 20.6%. The existing height of the structures is 13 feet. Both the lot and the structures are preexisting nonconforming. In November of 2021 an application for a special permit was submitted but was later withdrawn without prejudice. A revised application was filed in May of 2022. Since filing, he and his client have had significant discussions with a direct abutter and in cooperation have made various changes to the plans. The site plan was amended but was submitted only earlier today. The difficulty with moving forward tonight is that they are not positive that the lot coverage will remain at 20.6%. They will not be intensifying any setbacks, FAR, or height—the only concern is the lot coverage calculation. He requests another month continuance to set the lot coverage calculation properly.

Chairman Jake Dewey makes a motion to continue 2022-029 to January 11, 2023. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb

Nay: None

Appeal No. 2022-029 Leveroni is continued to January 11, 2023.

New Business**7:01 PM****Appeal 2022-052****Pellegrino**

Gregory Jones, Architect, representing property owner Anne B. Pellegrino, has applied for a Special Permit pursuant to 240-47.1.B Family Apartments. The Applicant seeks to replace an existing, detached 1-bedroom guest cottage with a 1-bedroom guest cottage and attached 3-car garage with an additional bedroom, bathroom, and home office above. The space will be occupied by family members. The subject property is addressed as 320 Carriage Road, Osterville, MA as shown on Assessor's Map as Parcel 070 017 002. It is located in the Residential F-1 (RF-1) Zoning District.

Sitting on this is Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, and Denise Johnson.

Greg Jones, the architect of the project, is representing the applicant. He is joined by Ann Pellegrino and Carla Cabot, the applicant and her daughter. He provides the Board with background: the existing property had a two-story main house and a one-story guest cottage separate from the main house. As of right, they have torn down the guest cottage and planned to build a new cottage that would be connected to the main house by an enclosed breezeway. As Mrs. Pellegrino gets older, she plans to live in the cottage while her daughter's family lives in the main house. They are before the Board because they decided they'd rather not enclose the breezeway. When Mr. Jones spoke to the Building Commissioner about their options, the Commissioner said without an enclosed link, the dwellings would be recognized as two single-family houses. He advised Mr. Jones that applying for a special permit for a family apartment would be the best option and would allow them to build a separate cottage without it being classified as a second single-family dwelling. They meet all provisions of the family apartment regulations, and Mr. Jones wants to also note that the spirit and goal of the finished project is to not look like two houses, but rather one rambling summer house.

Chair Dewey opens it up to the Board for questions. Paul Pinard asks for clarification on what they're asking. Mr. Jones says they received the building permit by virtue of a breezeway being enclosed, so they are asking the Board permission to not enclose the breezeway. The Board discusses whether this would be better served as an ADU. Mr. Jones believes they do not meet all the requirements for an ADU and would prefer a family apartment. Paul Pinard asks if the apartment unit is greater than 50% of the square footage of the dwelling, if the apartment has more than two bedrooms, or if the occupancy of the apartment will be

greater than two adult family members. Mr. Jones answers no to all. He says the only part that's up for interpretation is whether the single-family nature of the property and of the detached structure are preserved. He believes it is, and the Board agrees.

Chair Dewey opens for public comment. Councilor Gordon Starr asks for clarification about the structures on the lot and what the building permit is for. Mr. Jones explains that there is no longer a three-car garage, and the building permit for the rebuild includes the entire project, not just the cottage. He confirms that the cottage will have a three-car garage alongside it, with an office above the three-car garage. Councilor Starr asks what the building on the south side of the property is. Mr. Jones answers that it is a two-car garage with a caregiver's apartment above—a bedroom and bathroom. Councilor Starr asks if/when someone lives in that apartment. Mrs. Pellegrino answers rarely. Jake Dewey makes a motion to close public comment. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, Denise Johnson

Nay: None

Jake Dewey and Mark Hansen think it falls within the intent of the bylaw. Mr. Jones adds that an entirely new septic system was installed as part of this project. There is more discussion about whether this should be an ADU not a family apartment, but it is decided that a special permit allowing a family apartment is correct.

Paul Pinard makes findings for Appeal No. 2022-052:

Gregory Jones, Architect, representing property owner Anne B. Pellegrino, has applied for a Special Permit pursuant to 240-47.1.B Family Apartments. The Applicant seeks to replace an existing, detached 1-bedroom guest cottage with a 1-bedroom guest cottage and attached 3-car garage with an additional bedroom, bathroom, and home office above. The space will be occupied by family members. The subject property is addressed as 320 Carriage Road, Osterville, MA as shown on Assessor's Map as Parcel 070 017 002. It is located in the Residential F-1 (RF-1) Zoning District.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.
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 Board is also asked to find that:

4. The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.
5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.

Denise Johnson seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, Denise Johnson

Nay: None

Mark Hansen notes that Condition No. 2 includes the site plan, but not elevations. Anna Brigham suggests adding in the elevations to Condition No. 2. Paul Pinard reads that the appeal is subject to conditions 1-6 from Staff Report dated November 15, 2022, with the exception of adding Sheet A-3.00 Partial East and West Elevations dated October 4, 2021, revised November 3, 2021, and sheet A-3.01 Partial East and West Elevations dated October 4, 2021, and sheet A-3.02 North and South Elevations dated October 4, 2021 to Condition No. 2. Herb Bodensiek seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, Denise Johnson

Nay: None

7:02 PM

Appeal 2022-021

Vuilleumier

Louis Vuilleumier has filed an appeal of an Administrative Official's Decision in accordance with Section 240-88 Appeals. The Building Commissioner issued a Notice of Zoning Violation and Order to Cease & Desist on March 3, 2022 which stated that the total number of dwelling units are four: three units in the main dwelling and one in the detached barn/workshop are a zoning violation under Chapter 240-11 A. (1) in the RF-2 Residence F-2 Zoning District. The subject property is located at 4380 Main Street, Barnstable, MA as shown on Assessors Map 351 as Parcel 042. It is located in the Residence F-2 (RF-2) Zoning District.

Sitting on this is all regular members: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, and Aaron Webb.

Attorney Sabatt is joined by Mr. Vuilleumier. Attorney Sabatt explains that this property has three units in the main house and an accessory unit barn in the back where Mr. Vuilleumier lives. He rents out the other units—that’s how he makes a living. Attorney Sabatt explains that he is trying to lawfully find a way to preserve the three units and allow them to be rented out. They haven’t been able to find an alternative, so they contacted the Building Commissioner and were advised that they could apply for a building permit to remove two of the units and obtain an ADU permit. They will be meeting with the Building Commissioner the first week of January, so are requesting an extension to February 8, 2023. They are hopeful that after that meeting, they will be withdrawing this appeal.

Chair Dewey asks for clarification if Attorney Sabatt is representing Mr. Vuilleumier, as the Board received a letter dated Nov. 28, 2022 that noted his withdrawal as counsel in this matter. Attorney Sabatt confirms that he is representing the applicant again.

Chair Dewey makes a motion to continue this item to February 8, 2023 at 7:00 PM. Mark Hansen seconds.

Vote:

Aye: Jake Dewey, Herb Bodensiek, Mark Hansen, Paul Pinard, Aaron Webb

Nay: None

Appeal No. 2022-021 Vuilleumier is continued to February 8, 2023 at 7:00 PM.

Paul Pinard requests that Attorney Sabatt submit a letter confirming that he is returning as Mr. Vuilleumier’s counsel.

Correspondence

Cape Cod Commission DRI Decision dated November 3, 2022 for Centerville Gardens Wireless Communication Tower Re-submission.

Matters Not Reasonably Anticipated by the Chair

Upcoming Hearings

January 11, 2023 (remote), January 25, 2023 (remote), February 8, 2023 (in-person)

Adjournment

Paul Pinard makes a motion to adjourn. Mark Hansen seconds.

Vote:

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

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>