

# Zoning Board of Appeals MINUTES

## Wednesday, September 13, 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, September 13, 2023, at the time indicated:

### Call to Order

Chair Jacob Dewey calls the meeting to order at 7:04 PM with an introduction of Board Members:

Member	Present	Absent
Dewey, Jacob	X	
Bodensiek, Herbert	X	
Pinard, Paul		X
Hansen, Mark		X
Hurwitz, Larry		X
Johnson, Denise	X	
Webb, Aaron		X

Also in attendance is Anna Brigham, Principal Planner; Kris Clark, Town Council Liaison; 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

August 9, 2023 – Herb Bodensiek makes a motion to approve the minutes. Denise Johnson seconds.

### Vote:

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

### Old Business

**7:00 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. Members assigned: Jacob Dewey, Paul Pinard, Mark Hansen, Aaron Webb, and Herb Bodensiek.

The Board received a request to continue this item to October 11, 2023. The Chairman makes a motion to continue Appeal No. 2023-010 to October 11, 2023. Herb Bodensiek seconds.

### Vote:

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Appeal No. 2023-010 is continued to October 11, 2023.**

**7:01 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.

The Board received a request to continue this item to November 8, 2023. Herb Bodensiek makes a motion to continue Appeal No. 2023-014 to November 8, 2023. Denise Johnson seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Appeal No. 2023-014 is continued to November 8, 2023.**

**7:02 PM**

**Appeal No. 2023-016**

**Sawayanagi**

Junichi Sawayanagi has applied for a Special Permit in accordance with Section 240-47.2 C. (4) Accessory Dwelling Units (ADUs). The Applicant proposes to change the use of the front accessory structure from commercial use (previously a framing business) to residential use as a 1,671 square foot 1-bedroom Accessory Dwelling Unit which exceeds the 900 square foot as-of-right limit. The subject property is located at 1085 Main Street, West Barnstable, MA as shown on Assessor's Map 178 as Parcel 004-002. It is located in the West Barnstable Village Business District (WBVBD) Zoning District. Continued from August 8, 2023.

The Board received a request to withdraw this appeal. Herb Bodensiek moves to approve the withdrawal without prejudice of Appeal No. 2023-016. Denise Johnson seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Special Permit No. 2023-016 Sawayanagi is withdrawn without prejudice.**

**New Business**

**7:03 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).

The Board received a request to continue this item to October 25, 2023. Chair Dewey makes a motion to continue Appeal No. 2023-020 to October 25, 2023. Herb Bodensiek seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Appeal No. 2023-020 is continued to October 25, 2023.**

**7:04 PM**

**Appeal No. 2023-021**

**Capetown Plaza LLC**

Capetown Plaza LLC has applied for a Special Permit pursuant to Section 240-57 A. and C. Circumstances Warranting Reduction of Requirements. The Applicant seeks to establish an overall shopping center ratio for the property of 3.5 parking spaces per 1,000 square feet of shopping center gross floor area. The subject property is located at 790 Iyannough Road, Hyannis, MA, as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

The Board received a request to continue this item to September 27, 2023. Chair Dewey makes a motion to continue Appeal No. 2023-021 to September 27, 2023. Denise Johnson seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Appeal No. 2023-021 is continued to September 27, 2023.**

**7:05 PM**

**Appeal No. 2023-022**

**Capetown Plaza LLC**

Capetown Plaza LLC has petitioned for a Variance pursuant to Section 240-65 A. through E. and H. Signs in B, UB, HB, HO, S&D, and SD-1 Districts. The Petitioner seeks to establish a comprehensive site-wide tenant building and pylon signage criteria to regulate total allowable signage area, location, and illumination for "The Landing at Hyannis". The subject property is located at 790 Iyannough Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 092. It is located in the Business (B) and Highway Business (HB) Zoning Districts.

The Board received a request to continue this item to September 27, 2023. Chair Dewey makes a motion to continue Appeal No. 2023-022 to September 27, 2023. Denise Johnson seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Appeal No. 2023-022 is continued to September 27, 2023.**

**Correspondence**

None

**Matters Not Reasonably Anticipated by the Chair**

**Upcoming Hearings**

September 27, 2023, October 11, 2023, October 25, 2023

**Adjournment**

Chair Dewey makes a motion to adjourn. Denise Johnson seconds.

**Vote:**

**Aye: Jake Dewey, Herb Bodensiek, Denise Johnson**

**Nay: None**

**Documents Used at This Meeting**

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>