

**Zoning Board of Appeals  
MINUTES  
Wednesday, July 23, 2025  
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, July 23, 2025, 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 18 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/87592791406">https://townofbarnstable-us.zoom.us/j/87592791406</a>	US Toll-free: 888 475 4499
Meeting ID: 875 9279 1406	Meeting ID: 875 9279 1406

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 7:04 PM 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	
Pittenger, Natalie	X	
Tavano, Rodney		X
Webb, Aaron	X	

Also present is Anna Brigham, Principal Planner, and Genna Ziino, Administrative Assistant.

#### **Notice of Recording**

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

May 28, 2025, June 11, 2025 – Manny Alves notes that he was not absent June 11—he was in the building but couldn't access the meeting room because the elevator was out of order. He moves to approve both sets of minutes with that change. Larry Hurwitz seconds.

### Vote:

**Aye:** Jake Dewey, Manny Alves, Mark Hansen, Aaron Webb, Larry Hurwitz, Natalie Pittenger

**Nay:** None

**Abstain:** Paul Pinard (not present at May meeting)

## Old Business

**7:00 PM**

**Appeal No. 2024-039**

**25 Falmouth Rd, LLC**

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building Commissioner in issuing Building Permit BLDC 22-227, dated September 17, 2024. The permit was initially denied pending the receipt of a narrative to explain the expansion of the mechanical bays on the property. The Appellant's position is that the permit fails to take into account evidence and documentation from the town records and files, which conflict with the determination to issue the Building Permit. The subject property is located at 95 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311 as Parcel 073. It is located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, February 12, 2025, April 9, 2025 and June 25, 2025. No members assigned.

Chair Dewey says the Board received a request to continue this to August 27, 2025. There has been no word from the Legal Department. Paul Pinard moves to continue to August 27, 2025. Mark Hansen seconds.

### Vote:

**Aye:** Jake Dewey, Paul Pinard, Manny Alves, Mark Hansen, Larry Hurwitz, Natalie Pittenger, Aaron Webb

**Nay:** None

**Appeal No. 2024-039 25 Falmouth Rd, LLC is continued to August 27, 2025.**

**7:01 PM**

**Appeal No. 2024-040**

**25 Falmouth Rd, LLC**

25 Falmouth Road LLC has filed an Appeal of an Administrative Official's Decision in accordance with M.G.L. Chapter 40A Sections 7, 8, and 15 and Section 240-88 of the Barnstable Zoning Ordinance. The Appellant is appealing the Decision of the Building Commissioner in a letter dated September 4, 2024. The Appellant believes that the determination fails to take into account evidence and documentation from the town records and files, which conflict with the determination and do not address the concerns raised as set forth in the Appellant's enforcement letters and correspondence. The subject property is located at 95 Falmouth Road and 123 Falmouth Road, Hyannis, MA as shown on Assessor's Map 311, Parcels 073 and 078. Lots are located in the Highway Business (HB) and Residence B (RB) Zoning Districts. Continued from November 13, 2024, January 8, 2025, February 12, 2025, April 9, 2025 and June 25, 2025. No members assigned.

Chair Dewey says the Board received a request to continue this to August 27, 2025. Paul Pinard asks what the issue is behind the many continuances. The Chairman says it comes down to the Legal Department—it's an issue about whether there is standing. Aaron Webb moves to continue to August 27, 2025. Mark Hansen seconds.

### Vote:

**Aye:** Jake Dewey, Paul Pinard, Manny Alves, Mark Hansen, Larry Hurwitz, Natalie Pittenger, Aaron Webb

**Nay:** None

**Appeal No. 2024-040 25 Falmouth Rd, LLC is continued to August 27, 2025.**

**7:02 PM**

**Appeal No. 2025-019**

**Barnstable Black Belt LLC**

Barnstable Black Belt LLC has petitioned for a Variance pursuant to Section 240-52 C. Design and Screening Standards; 240-24.1.5 C. 3.(b) Standards for All Districts, Parking Standards, Location; and 240-24.1.5 E. (a-e) Surface Parking Lot Design Standards. The Applicant proposes to construct a new multifamily building containing 9 two-bedroom residential apartments on an undeveloped and underutilized lot with 10 parking spaces, associated landscaping, utilities, and related infrastructure. The Applicant is requesting relief for the proposed parking lot design and for certain landscaping requirements within the surface parking lot design standards.

The subject property is located at 79 Center Street, Hyannis, MA as shown on Assessor's Map 327 as Parcel 065. It is located in the Downtown Main Street (DMS) Zoning District. Members assigned: Jake Dewey, Herb Bodensiek, Paul Pinard, Mark Hansen, and Aaron Webb. Continued from July 9, 2025.

Herb Bodensiek is an assigned member but is not present. Natalie Pittenger was present at the July 9<sup>th</sup> hearing and will sit on this in his place.

Attorney Patrick Nickerson is representing the applicant and gives a recap: the lot is under 7,000 sq. ft., 3 frontages with differing grades of 10 feet, which they submit is a unique topographical condition of the property. He corrects a point from the memorandum: there are 9 residential units but one of those is a 1-bedroom, not 2-bedroom. Given the unique shape of the lot (nearly surrounded by public ways) along with the difference in topography, the only practical place for parking is within the frontage on Willow Ave. 240-24.1.5 A-E all relate to landscape plantings, buffer widths, and types of plantings to be constructed with any new parking lots. He submits that there's a generous amount of landscaping proposed with the new lot, but they're missing certain technical aspects of the landscaping requirements. He adds that 240-24.1.5 E.1.a provides that these sections of relief apply to the construction of any new surface parking lot and the expansion or modification of any existing surface parking lot containing 21 or more spaces that increases the number of parking spaces by 5 or more. He believes this begs the question of whether A-E would apply to one new parking lot with 1 space.

**Back to the Board for questions.** Mark Hansen thinks multiple nearby lots have 2-3 frontages or grade changes. He's not sure about uniqueness. Attorney John Kenney says the lot having the combination of both a grade change and three frontages makes this lot unique. The ordinance itself mentions primary and secondary frontage but not tertiary frontage. Attorney Nickerson adds that Section 240-126 requires the Board to find specifically "owing to conditions especially affecting such parcel or such building but not affecting *generally* the zoning district in which it is located." Not necessarily the surrounding lots, but the zoning district generally compared to the entirety of the DMS, not necessarily the neighborhood. Aaron Webb drove by the property and found it unique.

Natalie Pittenger asks for clarification about stories and where the doorways are. Nader Umar, representing the design team, explains that on the Center Street façade, there are entrance doors to the basement. Three of the doors are for units 1-3, one door is for an electrical closet and one for a mechanical closet. The other six doors lead to the other six units facing Willow Ave. Natalie Pittenger asks if they could fit any more parking. Ed Pesce from Pesce Engineering says they are proposing 10 parking spaces for 9 units— it's as many as they can fit. They're mirroring the adjacent properties who also access their site from Willow Ave. One side is the edge of Dynaflo and the other side is proposed screened trash. The sides of the building have drainage systems. Chair Dewey asks if they looked at parking left and right. Mr. Pesce says they did but this was the only option with reasonable safe access and has been tested true in other adjacent lots. This proposal was endorsed in SPR from the Fire Dept. Chair Dewey asks if they looked at parking underneath. They didn't look into it because the cost would be prohibitive because the number of units is too small. Attorney Kenney adds that the maximum setback they can have from Center Street is 15 feet, which doesn't leave room for parking to access Center Street.

Chair Dewey asks if they're saying the planting requirements can't be met because of the topography. Attorney Nickerson says it's a combination of topography and the 80% façade buildout requirement on Center Street and 40% buildout requirement on Dynaflo Drive. Ben LaFrance of Hawk Design Landscape Architects says they've planted every area they can on this property. 4 red maples, 1 elm, 70 shrubs. There are also infiltration systems for stormwater that preclude large plantings. Chair Dewey asks if they could meet the requirement if the structure was smaller. Ed Pesce says that the structure can't be any smaller because it has to meet 80% minimum primary frontage. Attorney Nickerson says they're proposing 80.1% so it could be reduced by .1%. He believes the intent of the ordinance was to promote thoughtful landscaping like this. Chair Dewey asks if parking could be offsite. Attorney Kenney would have to look into it but he doesn't think so or it would have to be within 300 feet, which is not an option.

Mark Hansen asks if the Fire Dept. had feedback about address confusion. Attorney Kenney says there were no questions from fire during SPR and he feels it would be sorted out at the time of building. Manny Alves asks to see SPR materials. Mr. Pesce says the SPR letter exists, dated November 18, 2024, and reads the bullet points from Hyannis Fire, all of which are all set.

**Chair Dewey opens for public comment.** There is none. The Chairman moves to close public comment. Mark Hansen seconds.

**Vote:**

**Aye:** Jake Dewey, Paul Pinard, Mark Hansen, Aaron Webb, Natalie Pittenger

**Nay:** None

**The Board deliberates.** The group discusses whether this meets variance criteria. The Chairman is wary about varying from the ordinance. Paul Pinard notes there is a need for housing and he doesn't think backing onto the road will be an issue. Natalie Pittenger is not concerned about landscaping but is concerned there's not enough parking. Chair Dewey says they need to stick to what's before them and the criteria. Aaron Webb thinks 80.1% means they can't make the structure any smaller and the roads here make it unique. The group discusses again the option of underground parking and it's explained that it wasn't explored as a feasible option.

**Paul Pinard moves to close the public hearing.** Aaron Webb seconds.

**Vote:**

**Aye:** Jake Dewey, Paul Pinard, Mark Hansen, Aaron Webb, Natalie Pittenger

**Nay:** None

**Paul Pinard makes findings:**

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 there is frontage on 3 streets, the lot narrows as it reaches terminus, and there's a 10-foot grade change.
2. A literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner. He finds that because of the 80% requirement they can't reduce so would have to forego development.
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 there is little to no detriment to the public good because the neighboring properties back out onto Willow and the landscaping is an improvement.

Aaron Webb seconds.

**Vote:**

**Aye:** Paul Pinard, Mark Hansen, Aaron Webb, Natalie Pittenger

**Nay:** Jake Dewey (feels it derogates from the intent of the ordinance)

**Paul Pinard says the appeal is subject to Conditions 1-5 from Staff Report dated June 26, 2025.** Attorney Nickerson requests to change Condition No. 1 to "8 two-bedroom residential apartments and 1 one-bedroom..." as he had miscounted. Chair Dewey expresses concern over the length of vehicles and that longer ones might be in the public way. Mr. Pesce says the edge of the public way is 4-5 feet away and they've met the town's size requirements, so doesn't think it's a concern. Paul Pinard suggests that SPR incorporated parking.

**Vote:**

**Aye:** Paul Pinard, Mark Hansen, Aaron Webb, Natalie Pittenger

**Nay:** Jake Dewey

**Variance No. 2025-019 Barnstable Black Belt LLC is granted with conditions.**

## **New Business**

**7:03 PM**

**Appeal No. 2025-020**

**Coxall**

Harold C. Coxall, Jr., Trustee of the Harold C. Coxall, Jr. Trust has applied for a Special Permit pursuant to Section 240-91 H. (3) Developed Lot Protection; Demolition and Rebuilding on Nonconforming Lots. The Applicant is seeking to demolish and rebuild the dwelling in accordance with the plans prepared by Cape & Islands Engineering, Inc. and Robert H. Williamson Architect. Relief is requested because the existing front yard setback is 16.8 feet and the proposed front yard setback is 21.7 feet to the foundation, 19.7 feet to the overhang, where 30 feet is required. The subject property is located at 265 Sea View Ave, Osterville, MA as shown on Assessor's Map 138 as Parcel 020. It is located in the Residence F-1 (RF-1) Zoning District.

Paul Pinard recuses himself and leaves the meeting. The Chairman assigns himself, Mark Hansen, Aaron Webb, Manny Alves, and Larry Hurwitz.

Attorney Michael Schulz is representing the applicant. He explains that the property is improved with a single-family home on a 36,585 sq. ft. lot. The dwelling was constructed in 1895 and is consistent with the neighborhood in terms of size and setback. They received approval from the Barnstable Historic Commission and the Conservation Commission for this proposal. They are seeking a special permit for relief from the front yard setback. The proposed front yard setback is greater than the existing so will be making it

less nonconforming. All other bulk requirements are met. It will be an improvement, and they received a letter of support from a neighbor at 25 Sea View Ave.

**Back to the Board for questions.** Chair Dewey asks what's holding the coastal bank. Robert Williamson, architect of the project, says it's an existing riprap structure and it's in very good shape with large boulders and no sign of erosion. Wilkenson Ecological Design created plan for conservation to remove all invasive species and replant the top of the coastal bank with native plantings in addition to the plantings required for mitigation. Natalie Pittenger asks what the second building is. Mr. Williamson answers it's an ADU. She asks how many square feet larger than the original the proposal is. Mr. Williamson says the existing structure is 4,597 sq. ft. and the proposed is 10,223 sq. ft.

**Chair Dewey opens public comment.** He says the Board received a letter in support from Martirosian of 25 Sea View Ave. Chair Dewey moves to close public comment. Mark Hansen seconds.

**Vote:**

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

**Nay:** None

**Mark Hansen makes findings:**

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-91 H. (3) allows for the demolition and rebuilding of a residence 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.
4. The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. All proposed setbacks will conform to the Ordinance.
5. The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 15.5%, which does not exceed the threshold.
6. The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater. The existing FAR is 12.5% and the proposed FAR is 16%, which does not exceed the threshold.
7. The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The proposed height for the proposed dwelling is 22 feet 6 inches.
8. The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.

Manny Alves seconds.

**Vote:**

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

**Nay:** None

Mark Hansen says the appeal is subject to Conditions 1-6 from the Staff Report dated July 10, 2025.

**Special Permit No. 2025-020 Coxall is granted with conditions.**

**Correspondence**

- 2025-07-21 Falmouth Rd Market Proforma Continued Hearing REVISED
- 2025-08-04 CC Country Club Hearing
- 2025-08-11 Falmouth Rd Market Continued Hearing

**Matters Not Reasonably Anticipated by the Chair**

Chair Dewey asks if there's an update on the draft special permit pool ordinance. Anna Brigham says it has stalled in the Legal Department.

**Upcoming Hearings**

August 13, 2025 (in person), August 27, 2025 (remote), September 10, 2025 (in person)

## Adjournment

Chair Dewey moves to adjourn. Aaron Webb seconds.

### Vote:

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

**Nay:** None

Meeting adjourned at 8:26 PM.

## Documents Used at this Meeting

- May 28, 2025 and June 11, 2025 minutes
- Letter from Attorney Mike Ford requesting to continue Appeals No. 2024-039 and -040 25 Falmouth Rd, LLC
- Appeal No. 2025-019 Barnstable Black Belt LLC application materials
- Staff Report dated June 26, 2025 for Appeal No. 2025-019
- Appeal No. 2025-020 Coxall application materials
- Staff Report dated July 10, 2025 for Appeal No. 2025-020
- Correspondence: 2025-07-21 Falmouth Rd Market Proforma Continued Hearing REVISED
- Correspondence: 2025-08-04 CC Country Club Hearing
- Correspondence: 2025-08-11 Falmouth Rd Market Continued Hearing

Respectfully submitted,  
Genna Ziino, Administrative Assistant

*Further detail may be obtained by viewing the video via the Barnstable Government Access Channel on demand at [town.barnstable.ma.us](https://town.barnstable.ma.us)*