



**MASHPEE ZONING BOARD OF APPEALS  
JUNE 22, 2016  
MINUTES**

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, June 22, 2016, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, Dom DeBarros, and Associate Members, Brad Pittsley and Norman J. Gould were present. Building Commissioner, Michael Mendoza was also present.

**PLEGE OF ALLEGIANCE**

**NEW HEARINGS**

**706 Old Barnstable Road:** Owner, Marc J. Kadis, and Dmitry Deych of Diamond Builders seeks reversal of the Building Commissioner's Decision to prohibit a bedroom use in an accessory structure under M.G.L. Chapter 40A §8 and §15, on property located in an R-5 Zoning District, (Map 79 Parcel 66), Mashpee, MA.

Attorney Kevin Kirrane represented the homeowner regarding this appeal application. The application is based upon two pre-existing, single-family dwellings situated on one lot which is not allowed under the Zoning Bylaws. Mr. Kirrane said he received a letter from Michael Mendoza, Building Commissioner dated May 5, 2016 listing the reasons he denied the request. Mr. Kirrane stated that he considers the dwellings to be utilized as single-family residential use, with only one bedroom, seating area, and a separate out-building as storage. He stated that these dwelling are not exceeding the number of bedrooms on the site.

Mr. Michael Mendoza, Building Commissioner approached the Board and handed out a memo with his reasons denying the application. He said that based on the Zoning Bylaws he cannot locate anything that clearly states that the Town allows this type of use, and he cannot issue a permit.

The Board had a discussion and questioned the code violations on the property, regarding the abandonment issue, and the non-conforming nature of the property. They decided it would be best to talk with Town Counsel on these matters. They would like to continue the hearing until July 13, 2016 ZBA hearings so they can have a discussion and get Town Counsel's opinion.

Mr. Blaisdell made a motion to continue this hearing for Marc J. Kadis, and Dmitry Deych of Diamond Builders who seeks reversal of the Building Commissioner's Decision to prohibit a bedroom use in an accessory structure under M.G.L. Chapter 40A §8 and §15, on property located in an R-5 Zoning District, (Map 79 Parcel 66), Mashpee, MA. Dom seconded. All were in favor to continue the hearing until July 13, 2016 and have a discussion with Town Counsel for his opinion.

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**10 Popponeset Island Road:** Owner, Leslie A. Wagner Caffyn requests a Written Finding under §174-17 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R-3 Zoning District (Map 105 Parcel 267A), Mashpee, MA.

**10 Popponeset Island Road:** Owner, Leslie A. Wagner Caffyn requests a Variance of the front yard setback under §174-31 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R-3 Zoning District (Map 105 Parcel 267A), Mashpee, MA.

Attorney Kevin Kirrane represented this raze and replace project. Also present was Leslie Wagner Caffyn, homeowner, and Harold Capone, Architect. Mr. Kirrane distributed a narrative, a plot plan, and building plans that depict the pre-existing non-conforming dwelling, and the proposed new dwelling design.

Attorney Kirrane stated that the Board approved an application back in 2014 at this location for an addition and garage project. The 2014 project cost of renovating the structure would exceed 50% of the value of the building, and with current building codes, it would require raising the first floor level of the building above the flood plain elevation and did not make sense.

The new building project configuration is slightly different that by increasing the lot coverage from 5.1% to 5.9%. The property is located on a peninsula shaped lot and does not have real frontage and can only be accessed by Popponeset Island Road. Back in 2014, the Board determined and approved the 15 ft. way as frontage and the proposed garage would be 15.3 ft. on that end of the private way. The new project will place the building 16.3 ft. back from the wide way making it less by 1 foot, which is the only variance request.

Mr. Furbush read the Conservation comments into the record; “the project was approved by the Conservation Commission on May 12, 2016.”

Mr. Furbush read the Inspection Department, and the Board of Health comments into the record.

There were no abutters present or comments from the audience.

Mr. Blaisdell made a motion to approve the Written Finding. Is conditioned upon Board of Health, Conservation, and Building Department comments and requirements. Also a Site Design Plan prepared by Cape & Islands Engineering, 800 Falmouth Rd. Suite 301C, Mashpee, MA. Sheet 1 of 1, Dated 6/9/14, Scale: As Noted, DWG File: Popponeset Island\_10Ahern, Drawn by: MC, Checked by: MC, Owner of Record: Leslie A. Wagner Caffyn, 10 Livermore Rd., Wellesley, MA 02481, Applicant: Leslie A. Wagner Caffyn, 10 Livermore Rd, Wellesley, MA. Project: Proposed Single Family Dwelling, 10 Popponeset, Island Rd, in Mashpee, MA. Revision Date: #1. 7/17/14, Changed Grading/Added Septic Tank Setback Note, by: MC, APPR: MC, #2. 11/05/14, Added New Flood Zones and Revised Grading, by: MC, APPR: MC, #3. 3/25/16, Changed Proposed Dwelling, by: MC, APPR: MC.

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Building Plans: dated 4/14/16: Caffyn House, 10 Popponesset Island Rd., Mashpee, MA. By Harold Capone, Residential Design, 5 Spinnaker St, Sandwich, MA. West Elevation, East Elevation, South Elevation, North Elevation, First Floor Plan, Second Floor Plan.

Mr. Gould seconded. All were in favor to issue a Written Finding for the raze and replace project.

Mr. Blaisdell made a motion to issue a Variance for the front yard setback in the amount of 23.7 feet and the Board considers the front on the southerly side of the easement to access the private way. This variance is conditioned upon Board of Health, Conservation and Building Department comments and requirements. This is also conditioned upon the site plan and building plans issued under the Written Finding.

Mr. Gould seconded. All were in favor to issue a Variance for the raze and replace project.

**38 Nathan Ellis Highway:** Owner, Mashpee Commons II LLC requests a Special Permit under §174-25-F (2) of the Zoning Bylaws to allow for sales, display, long term lease, and test drives only, of Tesla Motors, MA Inc., on property located at 11 Central Square, (Map 74 Parcel 20), Mashpee, MA.

Attorney Mike Ford, Tom Feronti and John Renz all with Mashpee Commons represented the application for Tesla. The Board had an informal meeting with Mashpee Commons at the hearings on May 25, 2016 to discuss the possibility of Tesla becoming a licensed car dealership. Tesla is currently permitted and occupying a unit located at 11 Central Square as a show room gallery only. Mr. Ford said he reviewed the Zoning Bylaws and discovered that a Special Permit for “use” is required for Tesla to become an actual car dealership. The 1986 Special Permit (SP-86-04-024) specifically states that modifications need to be brought to the Zoning Board of Appeals.

Mr. Tom Feronti approached the Board and said that Tesla has been occupying the unit space with a permit just under a month operating as a gallery and educational store only with one display vehicle and a chaise. There are no sales, test drives or leasing right now. As Mr. Ford mentioned, Tesla would like to convert from a gallery to operate as a car dealership. The dealership would allow them to have inventory of vehicles, offer test drives and sales. The cars are all custom ordered through a Tesla dealership only. There are three different models and they are just coming out with a simpler version. The Tesla store provides computer stations to order a vehicle. The inventory vehicles onsite is for test drives only. They are requesting six (6) vehicles to be available throughout Mashpee Commons.

Mr. Feronti provided two site plans that depict two different options that Mashpee Commons would like to install vehicle charging stations. Option 1 showed the three charging stations to be placed near Oak Street, and Option 2 showed two stations near Oak Street and one station behind North Street near Building 25. The Board had a discussion and preferred Option 2.

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Mr. Feronti asked the Board if Mashpee Commons in the future decides to install several charging stations if it would require approval from the Zoning Board. Mr. Ford said that the Board could make a condition either to revise the locations of the charging stations that the Building Inspector could approve or that an open meeting could be scheduled.

Mr. Mendoza said the Zoning Board of Appeals sets the process. Mr. Furbush prefers that Mashpee Commons return to the Zoning Board for the public notification on any changes. Mr. Feronti said that he agrees to return to the Board. He said that Tesla has applied for their Class 1 License with the Selectmen on July 11, 2016.

The Board had reviewed the requests to be listed under the Special Permit issued for Tesla. They had a conversation regarding test drives, and the location where the vehicles will be parked within Mashpee Commons. The Board had a conversation regarding the amount of vehicle deliveries. Mr. Feronti would like Tesla to be able to have the ability to deliver the vehicles delivered to Mashpee Commons.

Mr. Mendoza said that the Selectmen will need to know the amount of vehicles for test driving, and dedicated spaces for delivery and will need to be reported to the Registry of Motor Vehicles. The Board needs to know the designated area to accept deliveries and the inventory.

Mr. Ford said that there are certain reporting requirements for a car dealership and are listed under the Class 1 license.

Mr. Feronti said that there will not be designated spaces for inventory. The Tesla vehicles that are taken out for test drives will be subject to the same leasing requirements that they have for all employee vehicles, which is parking in the designated spaces.

Mr. John Renz said that there was only nine cars sold in Hingham over the last three months, so there would only be maybe one car for the owner to pick up. There is plenty of parking near the TD Bank.

Mr. Blaisdell made a motion to approve Owner, Mashpee Commons II LLC requests a Special Permit under §174-25-F (2) of the Zoning Bylaws to allow for sales, display, long term lease, and test drives only, of Tesla Motors, MA Inc., on property located at 11 Central Square, (Map 74 Parcel 20), Mashpee, MA. This is conditioned on the following;

1. The Board has determined that the applicant meetings all the conditions of a Special Permit under Mass General Law 40A Section 9.
2. Allow sales transactions of Tesla vehicles at this location.
3. Allow transactions for long term leasing of Tesla vehicles at this location.

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4. Allow vehicle deliveries to customers at this location at no assigned delivery spot.
5. Allow six (6) parking spaces for demonstration vehicles to be parked, three of which will be noted under Option 2, Building 25 and the other three located at random employee only parking areas in Mashpee Commons. Option 2: Referencing a plan titled; Mashpee Commons Site Plan, prepared for Mashpee Commons Limited Partnership in Mashpee, Massachusetts, by BSS Design Engineering & Surveying, Scale 1" = 150', dated June 17, 2011, Job number: 10184, Drawing Number P19-51.
6. There will be three (3) designated charging stations also noted on Option 2 plot plan. One located outside Building 25, and two near Perfection Fence.
7. Mashpee Board of Selectmen approval for a Class 1 License on July 11, 2016.
8. Board of Health requirement; no repair of vehicles at this location.
9. Inspections Department comments as noted for 11 Central Square.
10. Test drives of the demonstration vehicles will be allowed.

Mr. Gould seconded. All were in favor to approve the Special Permit for Tesla at their location at 11 Central Square, Mashpee, MA.

**OTHER BUSINESS**

**Approve June 8, 2016 Meeting Minutes**

Mr. Gould made a motion to approve the June 8, 2016 Meeting Minutes. Mr. Blaisdell seconded. All were in favor.

Mr. Pittsley made a motion to adjourn. Mr. Furbush seconded. All were in favor. The meeting adjourned at 7:48 pm.

Respectfully submitted,

Mary Ann Romero  
Administrative Secretary  
Zoning Board of Appeals