



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Meeting of the Mashpee Planning Board

Wednesday, June 21, 2023

Waquoit Meeting Room

Mashpee Town Hall

16 Great Neck Road North

Mashpee, MA 02649

7:00 PM

Amended June 16, 2023

Broadcast Live on Local Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

Call Meeting to Order

- Pledge of Allegiance

Approval of Minutes

- Review of Meeting Minutes from June 7, 2023

Public Hearings

7:10 PM (Continued from 06/07/2023)

Applicant: Southworth Mashpee Properties LLC

Location: 275 Quinacisset Avenue (Map 69 Block 32)

Request: Applicant proposes to modify the Willowbend Country Club Special Permit to construct a 14-unit single family cottage community immediately contiguous to the Willowbend Golf Course. With these changes the total unit count for the Willowbend project would be increased to 287 if the Board authorizes the annexation of 275 Quinacisset into the Willowbend Special Permit as allowed. 287 dwelling units is the maximum number of dwelling units authorized under the Special Permit. All units will be connected to and served by the existing privately owned wastewater treatment plant which serves the entire Willowbend project.

7:15 PM

Applicant: Southworth Mashpee Properties LLC

Location: Willowbend Permit Area

Request: Applicant proposes to modify the Willowbend Special Permit by amending the condition limiting the number of bedrooms allowed in the project. Currently Willowbend is allowed 853 bedrooms. Willowbend proposes to remove this condition or increase the maximum allowance.

7:20 PM (Continued from 05/17/2023)

Applicant: Marcello Mallegni, Forestdale Road, LLC

Location: 532 Main Street (Map 26, Block 6)

Request: The applicant requests consideration for approval of a 9 lot definitive subdivision plan of land consisting of approximately 18.05 acres located on Main Street (Route 130) between Nicoletta's Way and Echo Road.

MASHPEE TOWN CLERK
JUN 16 '23 PM2:33



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New Business

- Sign signatory page for the Barnstable County Registry of Deeds and Land Court Registry.
- Update and discussion with Chad Smith, Sewer Commission Chair, relative to the upcoming August 11, 2023 deadline for State Revolving Fund (SRF) Application to Mass DEP.

Old Business

- Discuss Planning Board priorities to bring to the Charter Review Committee
- Declaration of Default – Ockway Highlands Tripartite Agreement dated March 20, 2019
- Planning for October 2023 Town Meeting
 - Accessory Apartment zoning bylaw amendment
 - Raze and Replace Amendment
 - Tree Protection Bylaw

Board Engineer Report

- Project Reviews and Inspections

Chairman's Report

- Water Quality Issues

Town Planner Report

- Hazard Mitigation Planning Committee Public Workshop #2
- Harbor Management Planning Committee New Seabury Workshop
- Housing Production Plan update

Board Member Committee Reports

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Historic District Commission

Correspondence

- Town of Falmouth Notices
- Town of Sandwich Notices
- Town of Barnstable Notices
- April 2023 Discharge Monitoring Report for South Cape Village – N = 6.0
- March 2023 Discharge Monitoring Report for South Cape Village – N = 8.7

MASHPEE TOWN CLERK
JUN 16 '23 PM2:33

Additional Topics (not reasonably anticipated by Chair)

Adjournment



Town of Mashpee *Planning Board*

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**Mashpee Planning Board
Minutes of Meeting
Wednesday, June 7, 2023 at 7:00PM
Mashpee Town Hall - Waquoit Meeting Room
16 Great Neck Road North
Mashpee, Ma 02649**

**Broadcast Live on Local Channel 18
Call-in Conference Number: (508)-539-1400 x 8585
Streamed Live on the Town of Mashpee website
<https://www.mashpeema.gov/channel-18>**

Present: Chair Karen Faulkner, Mary Waygan, Dennis Balzarini, Mike Richardson, Dale Oakley, Robert (Rob) Hansen

Also Present: Evan Lehrer – Town Planner, Matt Eddy – Baxter & Nye Engineering, Jack McElhinney – Attorney for Southworth Mashpee, Troy Miller – Director of Development Willowbend

CALL TO ORDER

Chairwoman Faulkner called the meeting of the Planning Board to order at 7:00P.M. The Pledge of Allegiance was recited.

OPENING REMARKS FROM THE CHAIR

Ms. Faulkner thanked everyone for being present this evening. She is looking forward to a Board who works collaboratively and in harmony. She recognized Mr. Hansen as being a calm voice of reason and decency. Mr. Oakley, a newly elected member, gives a youthful perspective as well as hands on experience from his position as Assistant Director of Natural Resources for the Tribe. Mr. Balzarini brings vast wisdom from being a Planning Board member for 30 years. Ms. Waygan has an encyclopedic knowledge for all things Planning Board and housing issues. Mr. Richardson served two terms as a Select Board member, served on Finance Committee, as well as the Affordable Housing Committee. He enjoys the aesthetics, for things to look attractive, and he is partial to protecting trees. She thanked Mr. Lehrer for his ongoing support to not only the Board, but herself especially. She often seeks Mr. Lehrer's opinion and she comes with a legal skillset. She quoted Mr. Richardson in saying we have to find a balance between development and environmental concerns. We will seek this goal not as combatants but as a colleagues working towards a common goal. Our citizens deserve to be prosperous and live in a more environmentally healthy town. We must put down our swords, pick up the plow, and plant the seeds for a better Mashpee. Sometimes, that will take some political courage.



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APPROVAL OF MEETING MINUTES – May 17, 2023

No comments were made regarding the meeting minutes for May 17, 2023.

MOTION:

Mr. Richardson made a motion to accept the meeting minutes for May 17, 2023.

Seconded by Mr. Balzarini. All in favor.

PUBLIC HEARING

7:10PM (Continued from 5/03/2023)

Applicant: Southworth Mashpee Properties LLC
Location: 275 Quinaquisset Avenue (Map 69 Block 32)
Request: Applicant proposes to modify the Willowbend Country Club Special Permit to construct a 14-unit single family cottage community immediately contiguous to the Willowbend Golf Course. With these changes the total unit count for the Willowbend project would be increased to 287 if the Board authorizes the annexation of 275 Quinaquisset into the Willowbend Special Permit as allowed. 287 dwelling units is the maximum number of dwelling units authorized under the Special Permit. All units will be connected to and served by the existing privately owned wastewater treatment plant which serves the entire Willowbend project.

Jack McElhinney, Attorney for Southworth Mashpee, is present tonight with Troy Miller and Matt Eddy. This is a continued hearing for the originally filed application comprising of 14 units on 5 acres of land located at 275 Quinaquisset Ave. There have been a number of changes made to the project. Starting with the units, they have been decreased from 14 to 12. There will not be any discussions had this evening regarding the bedroom count in Willowbend. That is a separate modification and will have its own Public Hearing two weeks from tonight. They had the opportunity to meet with Mr. Lehrer and hear about some of the communities concerns as well as further input on how the project could move forward.

Key Changes:

Matt Eddy noted this is the first continued Public Hearing with a formal presentation based on changes made to the site plan. They submitted three revised sheets, the master layout, turn template plan from the Fire Department, and a master mitigation plan. They have addressed most, if not all, comments the Board has made thus far. The reduction in overall units will allow adequate spacing of units 20 ft. or better. They enhanced the buffer on Quinaquisset, it is now a 75 ft. vegetated buffer. Additionally, based on the Public Hearing with the Conservation Commission, they relocated the village green to the east of the parcel to be more contiguous of the golf course. The buffer along the wetland village green area has been enhanced. They are



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proposing a small storm water management forebay. The water quality enhancement on Quinaquisset will be a significant benefit to the public. The road width has been increased to 20ft. The turnaround for the fire truck eliminates the private driveways off the T turn, which thus eliminates conflict of parked cars by homeowners. The overall lawn area is well under the 20% mentioned in the special permits. The entrance geometry was not altered but the road width increased to 20ft. which allowed for more maneuvering. They went from almost 46,000s.f. of wetland impact to 7,600s.f. Mitigation will be provided to bog 1 and 2. Prior plan included three bogs, and has been reduced by one bog. This wetland restoration spans over two acres, over 88,000s.f. From a conservation standpoint, buffer impacts, enhancing Quaker Run, and restoration, will restore this area to a natural state. Once they get to a point where the Board is happy with the layout, they will address and revise the grading and stormwater design management details. There are significant cost efforts that go into that design plan and if it keeps changing it gets costly. As you shift aspects of the plan, then the layout affects the elements.

Mr. Balzarini commented there is still stormwater further past the entrance. He asked if that was Willowbend.

Mr. Eddy noted there will be improvements there. The DPW Director asked them to provide Cape Cod berm along Quinaquisset Ave. From the entrance there will be Cape Cod berm that will not only direct but control drainage. Then a forebay will address the whole shoulder.

Mr. Balzarini inquired about the restoration process for the cranberry bogs.

Mr. Eddy answered that Fuss & O'Neil were brought on as experts in bog restoration. The bogs are currently active and farmed. They are mowed yearly and require the use of fertilizers and pesticides. The restoration process involves a combination of micro-topography highs and lows to restore the system. Eventually, Quaker Run will be more meandering when restored.

Mr. McElhinney commented when they met on May 4th they had a very detailed discussion on mitigation and bog restoration. The Commission felt it was a complex environmental project so they want to engage an independent peer review and go through the wetlands. They will look at the wetlands engineering issues.

Mr. Eddy noted as a result of that hearing, Drew McManus, Conservation Agent, believes this is an overall environmental benefit for the area with this project.

Troy Miller stated the other change that was made to this plan was the access to the cart path. That has been removed and is now a buffer, and all that activity is circulating to the south into the golf community, moving the cart traffic away from Quinaquisset Ave.



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Ms. Waygan commented Mr. Hansen is seated on this matter. She is not sure that Mr. Oakley can sit. She appreciates all the changes that were made. She is concerned about the special permit conditions and is still looking for that 100ft. buffer from Quinaquisset Ave. Surrounded properties all have 100ft. She does see this layout as close and high density, and she noted Willow Circle is a completely different creature. That special permit is not in compliance and we already spoke about that. She is going to have a great amount of trouble finding environmental factors, the special permit granting authority has to find that this project doesn't contribute issues to the habitat, water quality, or noise. They will have to hear from Conservation Commission before that can be determined. She referenced an email of updated conservation efforts. The Conservation Commission voted to continue the Public Hearing to June 15th and hire an independent consultant to review. Conservation Agent solicited requests from 4 firms and LEC Environmental Consultants was chosen. Documents will be reviewed at the June 15th meeting. The Commission will need to take a vote of endorsement for peer review. It will go to the Town Manager and all costs will be at the responsibility of the applicant.

Mr. Richardson is happy with their responses and addressing every issue thus far. He is comfortable with the buffer. It looks like a good project moving forward. They will need Conservation's support and he hopes they get it. He is appreciative of all the work that has been done.

Ms. Faulkner directed attention towards the Willowbend Special Permit Modifications, paragraph 19, Article 6. The Board has to be able to answer every single area, that this will not cause excess demand, not decrease air or groundwater quality, which is particularly on her mind these days. There will be no impact to wildlife, traffic flow, fisheries, etc. and they have to go through every one of these items. She understands it could cost \$250,000 to turn the bogs into wetlands. You also don't know what it will take until you get into it. It takes years of restoration and we have to issue how we protect that over the years. Let's say it takes five years, we would have to monitor the performance. Is Willowbend willing to do that?

Mr. Eddy corrected that they have decreased from 3 bogs to 2 so the costs have dropped slightly and reminded everyone this is no simple task, as the costs would prove, it would be a requirement for five years after any restoration.

Mr. McElhinney stated if they take on the work they have to keep on top of it.

Ms. Faulkner asked who the responsible party would be. Mr. Eddy stated Fuss & O'Neil has someone who specializes in that monitoring. From a Commission standpoint, the applicant performs and provides the monitoring documentation.



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Mr. McElhinney commented that Fuss & O'Neil is working with Mashpee on another bog restoration in town, and that played a factor when choosing who they worked with.

Mr. Balzarini can live with the setback as presented, but he needs the Conservation Commission's blessing. We do not need to worry about septic or any additional nutrients. He would like Conservation to come to a Planning Board meeting.

Mr. Eddy stated that due to costs he is trying to accomplish Conservation and Planning to work in an efficient direction. They knew they weren't going to have just one Public Hearing, they will go back to the Conservation Commission to discuss updates on the current layout. All comments and concerns will land in the same time frame and then they will complete a detailed grading plan.

Mr. Oakley is familiar with Fuss & O'Neil and he has been involved in other bog restoration projects. Ultimately, it does have many great benefits to the eco system. He is looking forward to learn more about that process. He is also curious if Fuss & O'Neil have consulted in any local stakeholder groups.

Mr. Eddy stated there haven't been any meetings yet with the stakeholders, just general presentations to this Board and the ConCom.

Mr. McElhinney made reference to the length and restoration mechanics stating once layers of sand are scraped away, you could be facing seed banks from 50 years ago that could grow back.

Mr. Hansen has concerns about the forebay along Quinaquisset Ave. Mr. Eddy answered that the berm is not currently there but once it is in place it will control the running water and bring it to the forebay. Mr. Hansen's other concern is the consistency of setbacks from the road. With the rest of the property being 100ft. setbacks, he is in favor of maintaining consistency. He likes the wider roads, as his original issue was with parking and emergency access. He likes the idea of a meandering water run instead of a straight stream when restoring the bog and Quaker Run. Where the units are proposed currently provides resting places for a lot of differing birds, it would be nice to consider the birds somewhere in the restoration area.

Wendy Williams- She is a resident of 35 years. Her entire career has been devoted to two things: environmental issues and being a proponent for low income people. We have not taken care of our world very well. These fires that we are suffering from coming from Canada are human originated. Overdevelopment has gone on too long and it has to stop. Our low income residents are having to cough up tens of millions of dollars to build sewers. This financial burden will grow leaps and bounds. She is especially worried about Tribal members and



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people making hourly wages. Why are we considering this? This is happening because of overdevelopment. The sewer will not be a magic bullet. She saw a lot of degraded land in Africa and bad things happen to people when they live in environmental degradation. We think we are protected, we are not. You cannot swim in these waters. Why are we talking about putting 12 units on 5 acres next to water, this is not okay. They have other land, they can build somewhere else. We have abused the natural limits. It should be set aside as conserved land as it is on the water's edge. They are already 147 bedrooms over what their permit allows. It is not mandatory they build. Mr. McManus never said he thinks this project is an overall benefit. If you are working on the bog, let's work on the whole area, all of Quaker Run. Willowbend owns most of Quaker Run. They should commit to fixing the entire bog, which would be an overall environmental benefit. She was told that there is supposed to be public ways that run through this property and there are no signs saying there are public ways. Those signs aren't there. She needs the Board to address that.

Arden Russell- She does not think this is an appropriate piece of land for dense development. It is environmentally sensitive and surrounded by wetlands. This parcel is 30% wetlands. Ten units will be built within 50ft. of the wetland buffer. Voters just increased the setback from a wetland. This is where the rubber meets the road. We can't put strategies on paper and not adhere, voters want 150ft. buffer from a wetland. This proposal will not improve our community.

Terry Ronhock- She knows these units will be set up through Willowbend's sewer, but runoff from roofs and fertilizations will be leached into the ground. These will not be treated. She appreciates the effort being made to take care of the berm and the basin that will be catching water off Quinaquisset. As we talk about water quality, the more water leaching into the groundwater that is shared is important too.

Ms. Faulkner will continue the Public Hearing for June 21, 2023 at 7:10P.M. and the second Public Hearing for the bedrooms matter will open at 7:15PM.

MOTION:

Mr. Richardson made a motion to continue this Public Hearing to June 21, 2023 at 7:10P.M. Seconded by Mr. Balzarini. All in favor.

NEW BUSINESS

Discuss Planning Board priorities to bring to the Charter Review Committee

Ms. Waygan commented the first Public Hearing is on June 20, 2023 at 6:30P.M. The Charter is reviewed every ten years. John Miller is the Chair. The work has been divvied up and each member has taken an article to discuss at length with the committee and take comments and really understand each one. Something big changed since the Charter was first adopted, we



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now have a federally recognized Tribe. There is a Tribal member on the CRC who remembered that and noted there should be a preamble with an explanation. In section 1-1 it talks about US Government, and the Tribe should be noted there as well. They got through three articles. There was discussion about what to do with the Town Clerk. Should we keep it an elected position or make it an appointment. It used to be the only position for the town, now it's a profession that you can major in. That is something to think about. They are brainstorming at this point and asking for clarification, most items have made it into the minutes. As you read the charter, what are your initial thoughts about it? The use of the title Town Officer should be replaced with Clerk. If you are an elected official, can you be appointed to another committee? That has come up numerous times, especially with Board members who had to step down from other committees to be on the Planning Board. The reception was so-so, which means the people who have a story to tell need to come to the meeting and share that story. She introduced a chronic vacancy concept where the Select Board could waive that rule. We want people involved! There was talk about doing a survey. There is no deadline so we are not rushing. We have to hold a Public Hearing within 30 days of the first meeting. John Miller is committed to doing a series of Public Hearings. They meet weekly, and the next meeting is the June 13, 2023 at 6:30P.M. The Public Hearing is June 20th at 6:30P.M.

There is a special email address on the website for the CRC, and there is a way to make comments. There are nine members, one from the Planning Board, two from the Select Board (David Weeden and Carol Sherman), two from the School Committee (Cathy Lewis and Don Meyers), two from the Finance Committee (Greg McKelvey and Darlene Furbush), and two At-Large who are appointed by the Town Moderator. John Miller appointed himself and the Town Manager, Rodney Collins. It is beneficial to have the Town Manager there.

Sign covenant release document for Silver Leaf Lane. Released on 05/03/2023

Board members signed the document.

OLD BUSINESS

Declaration of Default – Ockway Highlands Tripartite Agreement dated March 20, 2019

Mr. Lehrer provided progress updates. Images were projected on the screen. Mr. Pesce has been in touch with Lawrence Lynch and the site was prepped last Friday. Grades and elevations were shot and flat spots were identified for drainage issues. His associate engineer will be meeting them on site to provide clarity on Mr. Pesce's expectations for Lawrence Lynch and offer guidance for the top coat. Mr. Lehrer and Ms. Faulkner drove around Blue Castle Drive and discussed the Tripartite and Special Permit. They met Assistant Conservation Agent while they were inspecting the identified violations. The trailer is still there and has since been listed for sale. The bobcat has been pulled off the conservation property and trees were planted as a requirement. When the grass was removed it was left on the edge of everyone's front lawns, which is just unprofessional and indecent. Mr. Lehrer showed the picture of the



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stockpile with children climbing all over it. There is a certain lack of professional decency and courtesy that he will be addressing through the proper channels. He would like to urge the Board to stay the course in getting the subdivisions issues up to par. They are awaiting maintenance on Blue Castle Drive and the road to be paved, but the quality and condition of the neighborhood is not, in his opinion, overly challenging to remove hazard materials. This is not an issue anywhere else with developers in this town. It is not a Building Commissioner or code related matter, it's just unprofessional. He needs to evaluate this further.

Ms. Faulkner called this an attractive nuisance.

MOTION:

Ms. Waygan made a motion to refer three photos to the Building Commissioner and Board of Health for enforcement of health and safety concerns. Seconded by Mr. Balzarini. All in favor.

Mr. Lehrer referenced the Public Safety Mitigation, applicant's portion of Blue Castle Drive of the project shall be maintained annually by applicant or HOA, once established. Grading and preserving the crown of the road, as depicted, to provide a roadway capable of supporting fire trucks. All other specified maintenance of drainage is included. Mr. Morin extended an invitation for the neighborhood to participate and it was rejected based on all issues.

Tom McNabb- He is part of this HOA that has not fully been taken over. There are 7 houses of 14 that are occupied, 3 unsold lots, and one unsold house. Mr. Morin tried to set up a meeting to try and pawn off a lot of what's been discussed to the homeowners, of which he never disclosed issues with trailer, dirt, swales failing, clogged drains, roads falling apart etc. Mr. McNabb felt it was too early to turn this over to the HOA. Homeowners are not running anything, the road has not been maintained. He painted an orange circle around the deepest pot hole so people do not damage their vehicles. Mr. Morin rarely shows up to the site, there are still several houses that people have been waiting two years to move into. From their perception it has gone into a pause. On a rainy day or night the road is really bad.

Per the Chair, Ms. Waygan read Condition 10 into the record again: "Per the applicant's agreement to do so, the portion of the project and Great Neck Road South shall be maintained at the expense of the applicant".

Mr. Lehrer commented this is not just regarding the pavement, but also swales and a crown that directs flow into the swale, and there has been no evidence of any maintenance.



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Mr. Balzarini stated to hold the occupancy permits. Mr. McNabb stated according to Mr. Morin, he thinks he has maintained this project. Ms. Waygan stated the Board Engineer agrees with what the Board is suggesting.

Mr. Lehrer stated this is a permit granting but not enforcement agent. The Building Commissioner will look at these photos and concerns will be noted in a letter requesting evaluation for compliance.

John Kornack- He spoke to Mr. Lehrer today. The other night he was watching the water and it finally trickles down the road like it should. He has the lowest lot on Blue Castle Drive. It comes from the neighbors to his yard. He already spent \$5,000 with pits and drainage in his own yard.

Mr. Lehrer stated the engineer will be on site tomorrow to deal with the grading concerns. Mr. Lehrer will take his number and follow up with him.

MOTION:

Ms. Waygan made a motion to refer the Public Safety Mitigation condition #10 for BCDM, LLC Ockway Highlands June, 11 2014 in the Barnstable County Registry of Deeds to the Building Commissioner for enforcement. Seconded by Mr. Richardson. All in favor.

Planning for October 2023 Town Meeting

Solar Bylaw

Mr. Lehrer wondered how urgent the evaluation of this bylaw is. His ability in this moment to work on this is limited. Unless the Board would be interested in a different pathway, he would prefer to prioritize other articles over solar. Ms. Waygan would like to table the matter until the next opportunity to submit amendments to the zoning bylaw arises. The deadline for this round is July 10, 2023.

Accessory Apartment zoning bylaw amendment

Ms. Waygan doesn't know how the comments will translate. Mr. Lehrer will innumerate. They are modifying three subsections of bylaws. One is modification of subsection A, it identifies what an owner is. This allows the property owner to live in the principal dwelling unit or ADU, and rent out the other. Under no circumstances can both units be rented at the same time. The second modification removes the ratio and sets a cap of 900 s.f. as a maximum square footage and a minimum of 300s.f. Lastly, they are modifying the term for ADUs to be rented. They contemplated 90 days, which is what this states. He has received written comment from Ms. Russell. She noted the purpose of this bylaw was to encourage year round housing. She suggested a 12 month rental term.



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Mr. Lehrer stated if someone lists their property on any vacation rental website they get notified. It will need to be registered and inspected by a Code Compliance Officer as well as a walk through from the Board of Health.

Mr. Richardson made a point that if we are concerned about seasonal workers, aren't we then eliminating that entire group for housing considerations?

Ms. Waygan stated it can be modified if there are a lot of violations, but the purpose of the bylaw is to improve year round housing.

Ms. Russell also noted to change the wording from 'may' to 'shall'.

Ms. Waygan commented the Town Planner will have to write that article up.

Mr. Lehrer will change the 90 day term to 365 days. As a person who is building one now, at the end of the costs, he is eager to rent it to anyone who can occupy it. There are many year round workers desperate for a 12 month lease. Since making this change we have empty ADUs. It's prudent to consider a 12 month lease.

Ms. Waygan noted in order to have a J-1 you have to provide housing. She would like to give it a try and see if there is pushback. They will know if people are renting.

MOTION:

Ms. Waygan made a motion to slightly modify the Accessory Dwelling Unit bylaw by striking the words 90 consecutive days and replacing with 12 consecutive months.

Seconded Mr. Balzarini. All in favor.

Ms. Waygan also noted that you cannot live in the ADU and rent out the principal dwelling, neither can be used for lodging or boarding. She also had a proposal to increase the minimum square footage size to 400s.f. She asked if Mr. Lehrer could check into that for the next meeting, if anyone went below 450s.f. Other towns have 800s.f. ranches that are being built. Mashpee has a fairly large housing stock in regards to square footage. Requirements are you have to have a door to separate the bathroom from the main area and 4ft. of counter space. You need space to have separate sanitary areas.

Raze and Replace Amendment

Mr. Lehrer was struggling with one provision, the Dennis bylaw contemplates the gross floor ratio. It will not be beneficial to recycle that language, there hasn't been a single raze and replace with non-conformities. Within the floodplain and 15% lot coverage of actual structures, you can go up to 25ft. He sent this draft to Counsel with a particular question,



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and he has not gotten a response back regarding the extension of a setback nonconformity. Actions requiring a finding of substantially detrimental, for example, if you are in a zoning district with a 15ft. minimum setback and existing condition is 10ft. from the side, there is a 5 ft. non conformity and house is 20ft. in depth. Any raze and replace that proposes an increase in that same setback area will be found to be detrimental and will not be approved. The second floor would be impacted by same limitation. Lot coverage is awaiting Counsels opinion.

Ms. Faulkner asked if he could write it as a statement of the bylaw then provide an example illustration for each one.

Ms. Waygan is having trouble understanding. She doesn't want any existing non conformity to be increased. She can't understand this language and she wants a chart of all the things this bylaw should say. She doesn't want further encroachment into a side setback. She is wondering why they can't just say not permitted. Number four should say not permitted.

Mr. Lehrer stated any reconstruct in the Poppy Overlay can't introduce impervious surfaces. If you are suggesting an asphalt driveway you can't do it. They do not want to grandfather and do not want new. If you want to preserve the right to rebuild, you eliminate impervious.

Ms. Waygan referenced the covered and uncovered decks in number two. They should introduce not just uncovered but covered, if it's considered livable space or not.

Mr. Lehrer noted side setbacks, lot coverage, and building height are all examples of non-conformities. He is unsure about non-conforming building heights.

Ms. Waygan asked how they want to cap the height. Any non-conforming height can't be increased.

Mr. Lehrer stated if you live in a home with an existing condition of 18% coverage, you can go up to 20% and cannot exceed. There are no issues of lot coverage non conformities. An issue was exposed pertaining to lot coverage. Any wetland defined has to be eliminated. If you are 100% of land subject to coastal flow, you have an artificial lot coverage non conformity that you may extend or alter, and one may exceed lot coverage of 20%. He wants to provide that clarity for the technicality.

Ms. Waygan noted that will need to be a mathematic example for the Building Commissioner.



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Mr. Lehrer would like a joint meeting with ZBA for joint article submission to Town Meeting. If you are on a non-conforming structure, you may consider increasing footprint within certain parameters as defined below. You can't create new non conformities but are allowed to make the house bigger. Minimum or maximum lot coverage by structures has a requirement of 25%. The land subject to coastal storm flow could include language to exclude land subject to coastal storm flow. Living in Popponesset will have vastly different affects than someone living on Main St.

Ms. Waygan would like to go over number three, not exceeding floor space of 40%, but height can get bigger only within certain parameters.

Mr. Lehrer clarified you can increase size and setback as long as there is no non conformity. The Chair of the Board of Appeals is interested in working with the Planning Board on this.

Tree Protection Bylaw

Ms. Faulkner handed around a document. Mr. Lehrer went on to say this covers property owners. What if he is an owner not seeking a building permit, and has no interest in building, but has a breast height white oak in the tree yard, does he get to remove it because he is not building? Some owners will have no restrictions in removing trees because they aren't seeking a building permit. It seems unfair in a sense.

Ms. Faulkner asked what someone would do if they wanted to take down a healthy tree.

Mr. Lehrer noted if you're not seeking a building permit, you can still cut down your tree.

Ms. Waygan commented that during construction is when you see people go in and clear cut and that is what we are trying to stop. It's a good place to start, and if people love it and want more trees protected, then we enhance it. Right now, she thinks this is the only way to start.

Mr. Balzarini stated if someone wants to cut down a tree they can bring it to the dump and residents can salvage it for fire wood.

Mr. Lehrer contemplated an exception for the driveway. There are many configurations of a driveway. In certain configurations, it would achieve the preservation intent of the bylaw. Under this bylaw, trees can be removed to mitigate property. He would not recommend the driveway exception.



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Mr. Lehrer will send this to the Town Manager seeking answers on who is responsible for enforcement. Ms. Waygan would like to fill in the blanks and vote on it formally in two weeks.

Floodplain Overlay – Fill Prohibition

Mr. Lehrer commented this draft remains unchanged and it has been reviewed by this Board multiple times.

MOTION:

Ms. Waygan made a motion to submit this article to the Select Board for inclusion on the Town Warrant. Seconded by Mr. Balzarini. All in favor.

CHAIRMAN'S REPORT

Ms. Faulkner stated a film was shown at the Select Board meeting, it was a person traveling in a canoe on the Mashpee River. They put their hand in the water and when they pulled it out it was gunky and looked like a witch's head of hair. A drone then travelled from the Mashpee River to Shoe String Bay and it was covered in disgusting green algae.

August 11, 2023 marks the deadline to file the project evaluation forms with the DEP. If the deadline is not met funding is lost for 2024. It is not hard to file and you aren't required to have a big plan. The water is concerning to all of us.

Ms. Waygan stated that Sue Dangel lives in the neighborhood of Mashpee Pond and is the primary contact person for the Save Mashpee Wakeby Pond Alliance. Their annual meeting is June 25th. She also talked about the Quashnet River. We cannot forget about Waquoit Bay, and they are starting to get lost and don't understand where in the sewer plan they fall. At this point it seems to have been omitted. It's an important estuary where all the baby fish are born. It's desperately important to the health of our marine environment. She asked if they wanted to write a memo to the Select Board encouraging them to move forward. There is a Sewer Commission meeting tomorrow at 2:30P.M.

TOWN PLANNER REPORT

Hazard Mitigation Planning Committee Public Workshop #1

Mr. Lehrer was a little disappointed about the attendance. The survey is live, it would capture data if there was participation. Ms. Waygan attended and noted the consultant is excellent. The presentation and the way it flowed as well as interaction, it was informative and she liked the online polls. It's all about climate change, how we prepare and protect our town from floods, high winds, fires, and moving utilities underground to avoid power loss during storms. When asked what facilities we protect, a lot of people identified schools as high hazard areas. Mr. Lehrer will keep it open for a longer period to allow for more participation. There will be another workshop next month.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Harbor Management Planning Committee New Seabury Workshop

Mr. Lehrer will send further details via email, but the meeting will be held July 13th at the clubhouse for the association's frequent use of waterways. It is open to the public.

Housing Production Plan Update

Mr. Lehrer stated there will be a meeting with the Affordable Housing Committee for a formal kickoff in early July. Consultants wanted them to discuss the draft that gets submitted to the DHCD by December 21, 2023 for the granted money. He will coordinate with the Town Manager and Select Board Chair to establish a meeting date. Ms. Waygan suggested it be on a Select Board meeting night.

PUBLIC COMMENT

Lynne Barbee- She wanted to discuss the concept of native species. In talking with tree guys at Mahoney's, native is hard to come by on Cape. We have a lot of trees that aren't native and may be restrictive. She also has a comment regarding Solar Bylaw on the agenda. She has personal feelings about it. She worked hard on a good bylaw. We do not need overlays for specific special cases. It is good the way it is.

BOARD MEETING COMMITTEE REPORTS

Cape Cod Commission-

Continuing to work on Regional Housing Strategy. Stakeholder meeting in Mashpee, another on June 23rd at Mashpee Public Library. The housing survey is on the CCC website.

Community Preservation Committee-

Met last week. Voted to recommend funding for the cemetery restoration for the Historic Commission for \$85,000. Voted to recommend funding for disc golf on Ashumet Rd. They are holding the third application for \$500,000 for the Trust. They have a vote from the Trust affirming they are applying for funds. She is the liaison for the CPC on the HPP.

Design Review-

No Meeting

Plan Review-

Met and reviewed expansion of Mashpee Neck Marina, adjacent to a residential property. He met with neighbors and applicant, important to understand the commercial needs and neighborhoods existing conditions and concerns. Items addressed were: access to parking area from Mashpee Neck, limitations on boat racks, no storage, changes from landscaping plan for different species canoping over time, and stockade fencing.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Environmental Oversight Committee Mr. Oakley is the representative to the EOC. It has not met in a while. Ms. Waygan emailed the Town Manger to get it going again, stay tuned.

Historic District Commission- No Meeting

Next Meeting: Wednesday, June 21, 2023 @ 7:00PM

ADJOURNMENT

MOTION:

**Mr. Balzarini made a motion to adjourn the meeting of the Planning Board at 9:57P.M.
Seconded by Mr. Richardson. All in favor.**

Respectfully Submitted,

Christine M. MacDonald
Board Secretary

LIST OF DOCUMENTS

Additional documents may be available in the Planning Department.

- Town of Falmouth Notices
- Town of Sandwich Notices
- Town of Barnstable Notices
- January 2023 Discharge Monitoring Report for South Cape Village – N= 5.1
- December 2022 Discharge Monitoring Report for South Cape Village – N= 6.9

PUBLIC HEARING-CRANBERRY POINT

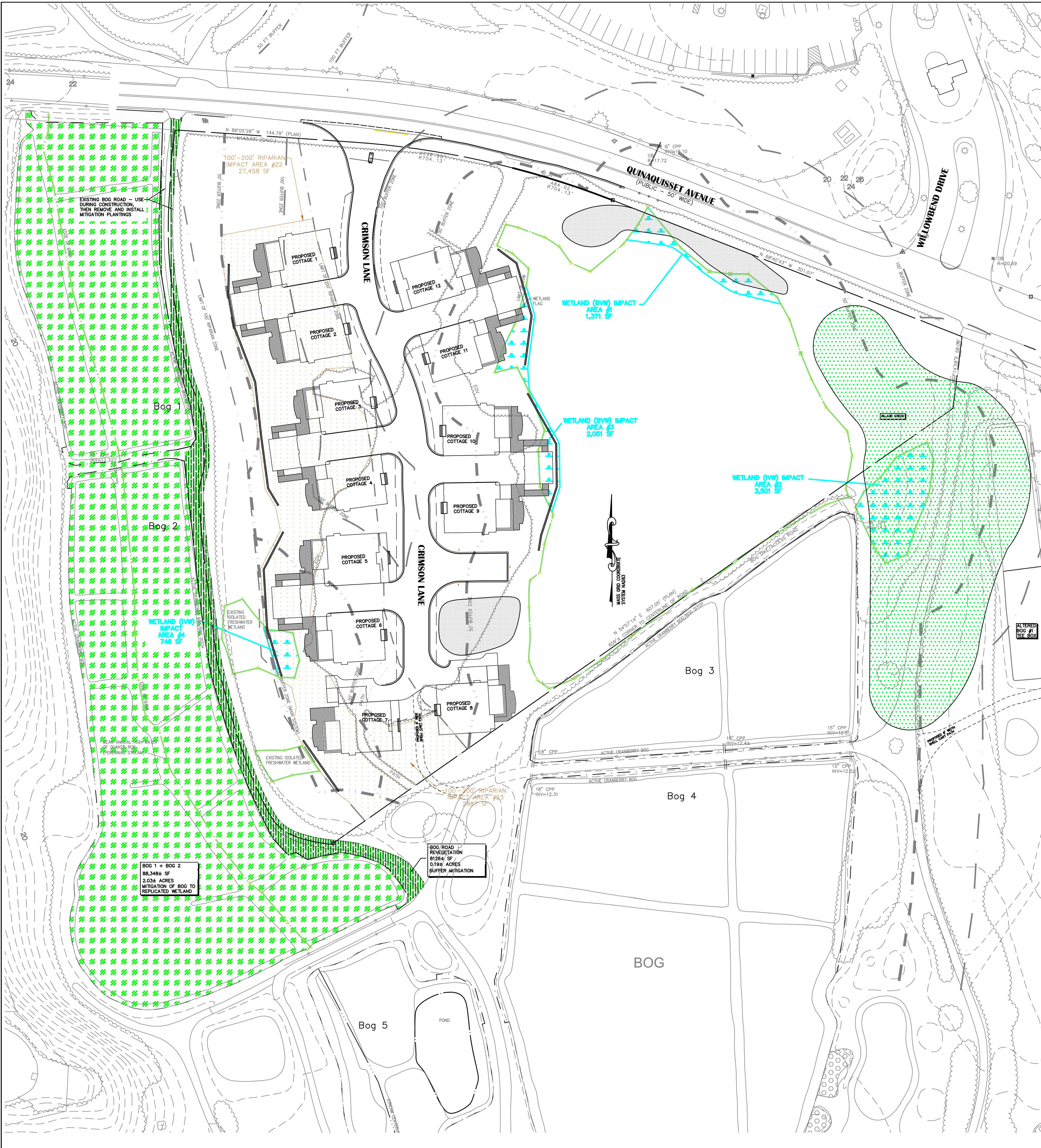


Mashpee Planning Board Public Hearing Notice

Publication dates: Friday, February 10, 2023
Friday, February 17, 2023



C:\2014\2014-009\DWG\101\QUINQUAQUSETT\2014-009-001.dwg 5/23/2023 1:40:10 PM mwdy DWG TO PDF p3.11



Willowbend - 275 Quinquisset Ave, Mashpee, MA
Job # 2014-009
BASED ON EXISTING WETLAND DELINEATION

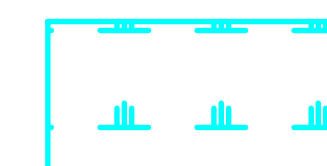
By: ZDP
chkd: MWE

Date:
5/12/2023

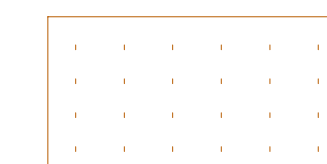
WETLAND MITIGATION CALCULATIONS

Buffer Impact Areas (SF)	Mitigation Multiple	Required Buffer Mitigation Area	Wetland Restoration Required (Ac)
(0-50) NR	40,459	2.9	118,005
(50-100) R	7,428	3.3	24,347
(100-200) R	33,329	1.0	33,329
Total Mitigation for Buffer Impact			4.03
Upland Buffer Mitigation Provided on Existing Bog Road			0.11
Net Mitigation required for Buffer Impact			3.92
			0.25 *
			0.98
			Bylaw Mitigation Table. Between a 5 to 6:1 ratio is required at 0 ft to 10 ft buffer impact. Reasoning a 4:1 credit ratio for actual wetland restoration vs. buffer restoration is a conservative assumption.
Wetland Impact Area (SF)	Required Wetland Replication Area		
Bordering Vegetated Wetland	3,422	sf	Ac.
Isolated Vegetated Wetland	4,249		
Total Mitigation for Wetland Impact	7,671	2.0	15,342
			0.35
			0.35
			1.33
			Wetland Restoration Provided
			sf
			Ac.
			88,348
			2.03
			2.03

SHADING KEY



WETLAND IMPACT



OUTER RIPARIAN' BUFFER IMPACT



BOG TO WETLAND RESTORATION



BOG ROAD REVEGETATION

BAXTER NYE
ENGINEERING & SURVEYING

BAXTER NYE
ENGINEERING &
SURVEYING

Registered Professional Engineers
and Land Surveyors

1597 Falmouth Road
Centerville, MA 02632

Phone - (508) 771-7502
Fax - (508) 771-7622
www.baxter-nye.com

STAMP

STAMP

CONSULTANT

CONSULTANT

PREPARED FOR:

**Southworth Mashpee
Properties, LLC**
130 Willowbend Drive
Mashpee, MA 02649

PROJECT TITLE

Cranberry Point
275 Quinquisset Avenue
Mashpee, MA 02649

DATE	DESCRIPTION
5/23/2023	CONSERVATION UPDATE
5/1/2023	CONSERVATION UPDATE
4/28/2023	PER PLANNING BOARD COMMENTS
3/24/2023	PER PLANNING BOARD COMMENTS

SHEET TITLE

**Master
Mitigation Plan**

SHEET NO

C6.0

DATE: JANUARY 16, 2023

40 0 40 80

SCALE IN FEET

SCALE: 1"=40'

DRAWN BY: ZDP CHECKED BY: MWE

JOB NO.: 2014-009 FILE: 2014-009\QUINQUAQUSETT

FOR PERMIT ONLY - NOT FOR CONSTRUCTION

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STAMP

CONSULTANT





CONSULTANT

PREPARED FOR:

**Southworth Mashpee
Properties, LLC**
130 Willowbend Drive
Mashpee, MA 02649

PROJECT TITLE

**Cranberry Point
275 Quinaquisset Avenue
Mashpee, MA 02649**

	ZDP	5/23/2023	CONSERVATION UPDATE
	ZDP	5/1/2023	CONSERVATION UPDATE
	JKL	4/28/2023	PER PLANNING BOARD COMMENT:
	JKL	3/24/2023	PER PLANNING BOARD COMMENT:

		DATE	DESCRIPTION
--	--	------	-------------

SHEET TITLE

Truck Turning Template Plan

SHEET NO.

C3.4

DATE: JANUARY 16, 2023

30 0 30 60

SCA
30415 1" 30

SCALE: 1 = 50

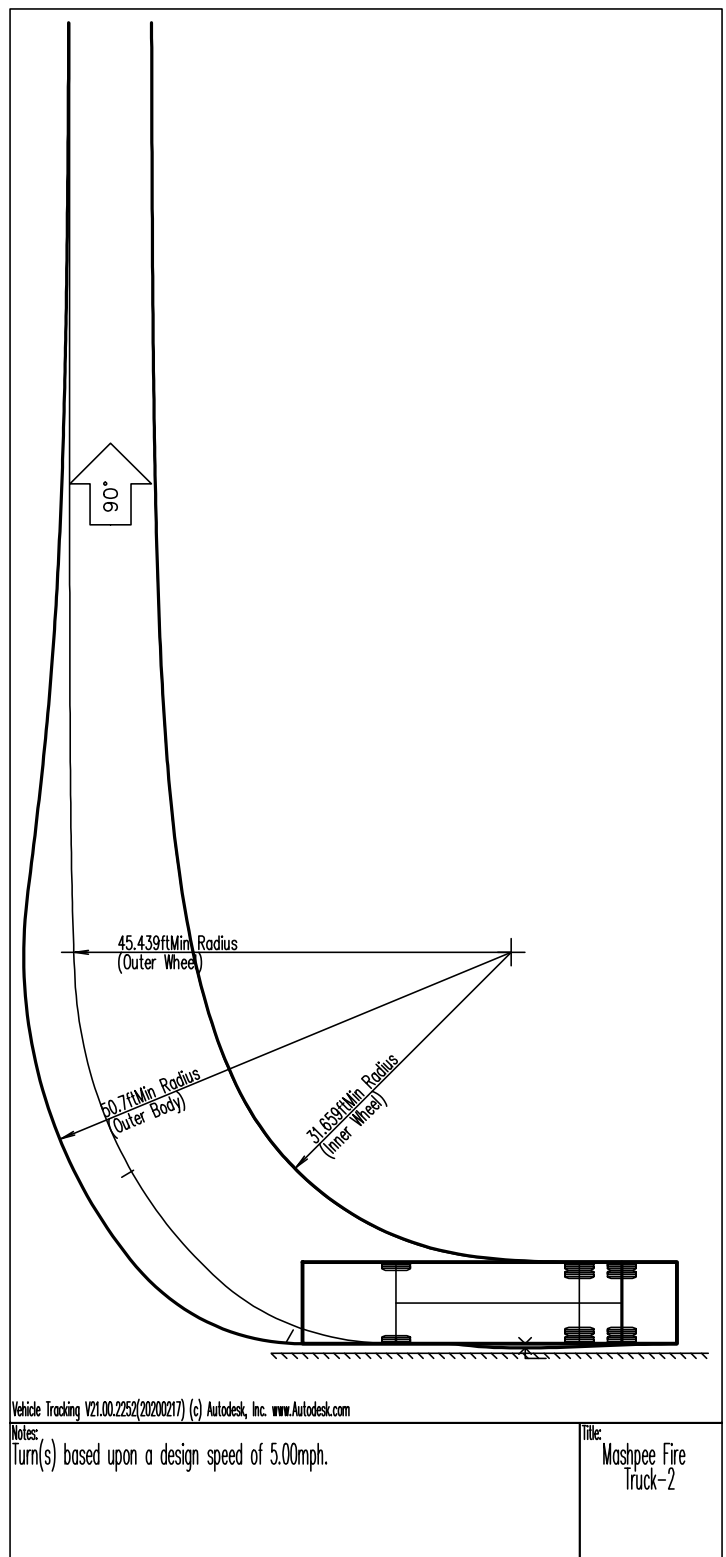
DRAWN BY: 111

FILE NO. 2214 222

UNIT THE EYDDEG WRITTEN BY

DATE: 0014 000 QUIN 1

FILE: 2014-009 Q01N 11.dwg



Ladder Truck Turning Template

FOR PERMIT ONLY - NOT FOR CONSTRUCTION

PUBLIC HEARING-WILLOWBEND BEDROOMS



Town of Mashpee

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Mashpee Planning Board Public Hearing Notice

Pursuant to Massachusetts General Laws, Chapter 40A Section 11 and the Town of Mashpee Zoning Bylaws Section 174-24(C)(9), the Mashpee Planning Board will hold a public hearing on Wednesday, June 21, 2023 at 7:20 PM at the Mashpee Town Hall, 16 Great Neck Road North, to consider an application from Southworth Mashpee Properties LLC, property owner, to modify the Willowbend Country Club Special Permit. This application requests that the existing condition in the November 1991 Special Permit modification decision affirming the limit of the total number of bedrooms within the Willowbend project area to 853 be amended

Submitted by:

Mary E. Waygan
Mashpee Planning Board

Publication dates: Friday, June 2, 2023
 Friday, June 9, 2023



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

APPLICATION FOR SPECIAL PERMIT MODIFICATION

Date received by Town Clerk: May 15, 2023 Town Clerk Signature / Seal: [Signature]

The undersigned hereby applies for a Modification of the Special Permit approved by the Mashpee Planning Board on April 15, 1987 for a project entitled Willowbend Country Club.

The original Special Permit and any Modifications have been recorded in the Barnstable County Registry of Deeds at the following Book(s) and Page(s):
Book 5707, Page 290

Name of Applicant Southworth Mashpee Properites LLC Phone 508-539-5200

Address 130 Willowbend Drive, Mashpee MA

Owner, if different Same Phone _____

Address _____

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessors' certification.
Deed of property recorded in Barnstable County Registry Book 32022 Page 219
or Land Court Certificate of Title No. _____

Location and description of property: 275 Quinquisset Avenue

Mashpee Assessors Map(s) and Block(s): 69-169, 69-32

Zoning District(s) in which property is located: R-3

How long have you owned the property? Four Years

Section(s) of the Zoning Bylaw which require(s) the permit you seek: 174-24(C)(9)(g)

Present use of property: Single Family Residence

Description of proposed modification (attach plans and documents as required by the Zoning By-law and Special Permit Regulations):

Applicant requests that the existing condition in the 1991 Special Permit decision limiting the number of bedrooms within the Willowbend project to 853 be amended to allow additional bedrooms provided that sewage flows associated with any additional bedrooms are authorized by DEP under the Groundwater Discharge Permit for the Sewage Treatment Plant operated by the Willowbend Community Trust. This modification request supplements the currently pending modification request to construct twelve (12) additional units on the 5.03 acre parcel at 275 Quinquisset Avenue.

Signature of Owner or Authorized Representative [Signature] 5/10/13

Attach written authorization signed by owner.

John McElhiney
attty for Southworth
Mashpee Properties

MASHPEE TOWN CLERK
MAY 15 '23 PM 12:32

JACK McELHINNEY

Attorney at Law

63 Shore Road, Suite 23
Winchester, MA 01890
jmcelhin@aol.com

Office: 781.729.7299

Cell: 617.816.4092

May 12, 2023

Planning Board
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

Attn: Evan Lehrer, Town Planner

Re: Willowbend Country Club – Request for Modification of Special Permit

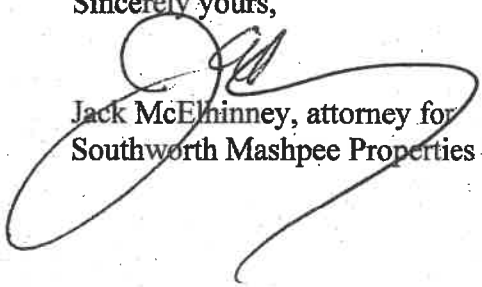
Dear Members of the Planning Board:

Enclosed please find the application of Southworth Mashpee Properties LLC for a modification of the Special Permit for Willowbend Country Club. This application is submitted to supplement the pending application seeking approval to include within the Special Permit the 5.03 acre parcel known as 275 Quinaquisset Avenue immediately contiguous to the golf course and to demolish the existing single family home currently served by a septic system and to construct thereon 12 single family cottages. All units would be connected to the existing Willowbend Sewage Treatment plant.

This application requests that the existing condition in the November 1991 Special Permit decision limiting the total number of bedrooms within the Willowbend project to 853 be amended to allow additional bedrooms provided that sewage flows associated with any additional bedrooms are authorized by DEP under the Groundwater Discharge Permit for the sewage treatment plant owned by the Willowbend Community Trust.

Please feel free to contact me should you have any questions.

Sincerely yours,



Jack McElhinney, attorney for
Southworth Mashpee Properties LLC

cc: Town Clerk
Matthew Eddy, P.E.

PLANNING BOARD
MODIFICATION OF SPECIAL PERMIT DECISION

I. REGARDING

Reference is made to a Special Permit Decision issued by the Mashpee Planning Board to Daniel C. Hostetter and John A. Largay, Trustees of Fox Run Realty Trust, dated April 15, 1987, as amended by a Modification of Special Permit dated August 17, 1988, a second Modification of Special Permit dated March 7, 1990, and a third Modification of Special Permit dated March 21, 1990 (hereinafter collectively the "Special Permit"). By decision dated August 7, 1991, the Special Permit was conditionally transferred to Bent Twig Limited Partnership or its assignee (referred to hereinafter as the "New Owner" or "applicant"). The Special Permit authorizes construction of a residential/golf course community known as Willowbend south of Route 28 in East Mashpee (the "Project").

The New Owner requested modifications to the Special Permit in order to clarify its rights under the Special Permit. The requested modifications were considered at the Planning Board's meeting on November 6, 1991.

II. JURISDICTION

This modification is issued pursuant to Sections 9.3 and 9.4 of the Mashpee Zoning By-law as in effect on November 6, 1985 as well as pursuant to applicable provisions of M.G.L. c. 40A, Section 9.

III. FACTS AND FINDINGS

In order to confirm its rights under the Special Permit, the New Owner requested the modifications described below. The Board made the following findings on the proposed requests.

Request 1

The applicant requested confirmation of the total number of bedrooms allowed within the Project. As originally permitted, the Project was proposed to include 338 units with a maximum of 853 bedrooms. The applicant is now proposing a less dense future development plan which will focus primarily on detached single-family units under condominium or other form of common ownership resulting in greater open space and, based on the applicant's marketing plans which target "empty-nesters," less overall

population within the development and therefore lessened impact on municipal resources. Consistent with the OSID provisions of the current By-law, the Board interprets the bedroom limit contained within Section 9.322 as a density limit which was intended to establish a maximum number of bedrooms within the development when applied in conjunction with the maximum number of units established under the permit. The Board believes that the applicant's proposed plan to reduce the total number of units is consistent with the intent of the By-law and will result in a more beneficial project. The Board therefore approves the reduction in the number of units from 338 to 287 and waives strict compliance with the provisions of section 9.322 provided that the maximum number of 853 bedrooms (excluding dens, studies and family rooms) originally contemplated shall not be exceeded.

Request 2

The applicant requested the Board to confirm that under the Special Permit he may allow non-resident members of the golf club. The applicant demonstrated that the original developer's plans provided for outside members. The applicant also provided information documenting that it is customary for golf courses within residential communities such as Willowbend to have outside members in addition to resident members. The Board stated that in granting the Special Permit, it had anticipated that non-resident members would be allowed to join the golf club and that the proposed use is authorized as a customary accessory use and is not precluded by Section 9.334. Based on the information presented, the Board finds that this use was permitted under the original Special Permit pursuant to Sections 9.3613 and Section 9.42(7)(b) of the By-law.

Request 3

The applicant also requested a modification to the Special Permit to allow the golf course open space to be transferred to the association of homeowners subject to the provisions of a long-term lease. In granting the original Special Permit, the Board anticipated that the homeowners would need to contract with a third party to actually manage the course, and the proposed lease represents a long-term solution to that need. Presentations were made on behalf of existing homeowners expressing their support for the proposal and stating that it would relieve them from burdensome assessments and potential liabilities. Therefore, the Board finds that the proposed lease arrangement satisfies the requirements of Section 9.362 and Section 9.42 which list the allowable forms of ownership of open space.

Request 4

The petitioner also requested that the 27 lots listed on Schedule C to this modification which have been sold to third parties be released from the provisions of condition 20 of the Special Permit requiring that all sewage from the project be treated by the sewage treatment plant.

The Board finds that since the original issuance of the Special Permit in 1987, statements of policy at the state DEP have effectively prohibited the use of sewage treatment plants to service single-family subdivisions. The applicant presented information confirming that there is no practical manner in which it can provide sewer service to the 27 single family lots without altering the form of ownership of the existing lots. The Board also finds that the total flow associated with the 27 lots will represent less than 6% of the total flows from the Project and that allowing these 27 lots to remain on septic systems will not have any significant impact. The lot owners themselves have also requested the Board to grant this modification to remove the cloud surrounding the marketability of these lots. Should public ownership of the sewer system or a change in DWPC policy allow these 27 lots to be tied into the sewage treatment plant, the applicant has agreed that they will be tied into the sewage treatment plant pursuant to the provisions of Condition 20 of the Special Permit. The Board therefore finds that the requested modification would not have a detrimental effect on the development and grants the requested relief. The use of the septic systems for the 27 lots shall be subject to the approval of the Mashpee Board of Health.

Based on the foregoing, the Board finds that the development as herein modified is to be constructed in substantial compliance with the requirements of the original Special Permit and that the proposed modifications will reduce overall density from that originally permitted and allow the golf course to be operated as a championship course as envisioned under the original Special Permit. No change in use is proposed. The Board also finds, for reasons enumerated above, that the modifications and clarifications sought are: (1) consistent with, and do not derogate from, the intent of the Zoning By-law; (2) in general harmony with the purposes and intents of the Zoning By-law; (3) in compliance with the provisions of M.G.L. c. 40A, Section 9 and applicable provisions of the Zoning By-law including requirements of Sections 9.3 and 9.4; (4) in furtherance of the public good and not substantially detrimental to adjoining land; and (5) not of such significance as to require a public hearing on the Board's modification decision.

IV. MODIFICATIONS TO SPECIAL PERMIT

The Board voted unanimously on November 6, 1991 to grant the proposed modifications and relief requested and to modify the Special Permit as follows:

1. By adding a new condition 29 as follows:

29. Notwithstanding anything to the contrary in the Special Permit, the total number of residential units permitted, which may be of any type allowed under Section 9.3 or under Section 9.4, shall not exceed 287 and the total number of bedrooms within the Project (not including any den, study or family room) shall not exceed 853.

2. By adding a new condition 30 as follows:

30. Any person who initially purchases a lot or unit within the development from the developer shall, at that time, be offered membership in the golf club, subject to the applicable fees and regulations provided for under the golf club's membership documents. If after having been offered membership, that lot or unit owner declines to join, then such membership spot can be offered to persons who are not residents of Willowbend. The developer may also offer additional memberships in the golf club to non-residents.

3. By adding a new condition 31 as follows:

31. The open space, including the golf course, shall be owned by an association of homeowners which may take the form of a condominium association which shall be a non-profit organization. When title to the golf course open space is transferred to the association, it may be transferred subject to the terms of a long-term lease to a third party who will operate the golf course. The lease shall specifically provide that all golf course open space subject to the lease shall remain subject to the terms and conditions of the Special Permit and the provisions of the applicable Mashpee Zoning By-law. A copy of the lease shall be submitted to the Planning Board for approval prior to its execution so that the Board can determine that the lease complies with the terms of this paragraph and that the description of the leased premises accurately reflects the approved special permit plans.

4. By deleting Condition Number 20 of the Special Permit, as most recently amended on March 7, 1990, in its entirety and by substituting the following in its place:

The applicant shall construct a sewage treatment plant to provide a "tertiary" level of treatment for all waste water produced by the development, said treatment to include at least 90% denitrification and conformance with requirements and

standards of any waste water discharge permit issued and monitored by DEP and with any requirements imposed by the Mashpee Board of Health. Prior to the operation of the sewage treatment plant (or in alternative public system), a maximum of 27 single-family lots and 67 other residential units may be served by on-site septic systems designed, constructed and maintained in accordance with the requirements of Title V of the State Environmental Code and the Disposal Works Construction Permit requirements of the Mashpee Board of Health. The leaching facilities for these systems shall be located on the respective lots being serviced. The applicant shall construct waste water collection systems suitable to provide direct service to all lots and units in the development, including sewer lines to the front property line of each single family lot, in anticipation of connection to a sewage treatment plant, notwithstanding the construction of interim septic systems for the limited number of lots and units noted above. Upon completion and approval of the operation of the sewage treatment plant (or, for the 27 lots, upon said event and approval by DEP of the connection of said lots to the sewage treatment plant or a public system), all units and lots shall, at the expense of the developer or subsequent lot owners, connect to the sewer lines and waste water collection system and abandon any interim septic systems. The applicant shall provide sufficient notice of these requirements to all buyers of lots and condominium units in a form approved by the Planning Board. The applicant shall also provide sufficient cash or other security to guarantee funds for the construction of connections to the sewer lines from units built with interim septic systems. Lawn sizes on the aforementioned lots, so long as they remain on Title V systems, shall be limited to 3,000 square feet.

This modification represents a further refinement and specification of the original Special Permit which relates back and is hereby deemed part of the original Special Permit. In all other respects, the Special Permit, as herein modified, shall remain in full force and effect.

This Modification of the Special Permit shall become effective only after the occurrence of both of the following events: a) the recording of a deed(s) with the Barnstable County Registry of Deeds transferring title to those portions of the Project now owned by the Resolution Trust Corporation (the "Premises") to the New Owner, and b) the payment of all unpaid real estate taxes now due and payable to the Town of Mashpee with respect to the Premises in accordance with the terms of an escrow agreement dated August 7, 1991 on file with the Mashpee Tax Collector. This Modification of the Special Permit shall be further conditioned on the continued maintenance of an escrow account in the amount of \$100,000 provided for under said escrow agreement to cover estimated real estate taxes payable to the Town of Mashpee for fiscal year 1992 for the Premises.

Signed as of this 12th day of November, 1991.

Mashpee Planning Board

Judy H. Mills

This decision has been duly filed on NOVEMBER 13, 1991
with the office of the Town Clerk.

Jane D. Labute
Jane Labute, Town Clerk

I HEREBY CERTIFY THAT NO NOTICE OF APPEAL
HAS BEEN RECEIVED BY THIS OFFICE DURING
THE TWENTY DAYS FOLLOWING RECEIPT AND
RECORDING OF NOTICE FROM THE PLANNING
BOARD OF APPROVAL OF THE ATTACHED PLAN.

A TRUE COPY, ATTEST:

Jane D. Labute
TOWN CLERK OF
MASHPEE, MASS. 01949

Jane D. Labute
TOWN CLERK

DATE OF CERTIFICATION

Dec. 10, 1991

SCHEDULE C

Lots 7, 9, 10, 11, 12, 15, 16, 17, 19, 20, 21, 25, 30, 35
37, 38, 42, 43 & 55, 48, 49, 50, 54, 57, 58, 59, 60

1X
F2208



Town of Mashpee

P. O. BOX 1108
MASHPEE, MA 02649

PLANNING BOARD DECISION

Applicant: Bent Twig Limited Partnership
Location: "Willowbend" development, Quinaquisset Ave.
Request: Modification of Special Permit Decision

This is to notify you that the Mashpee Planning Board, at its meeting on _____, voted to _____ approve ☒ approve with conditions and/or modifications _____ deny the above request.

The reasons for the denial, or in the case of approval with conditions and/or modifications, the conditions and/or recommended modifications, are as follows:

The Board's decision, with modifications as finally approved by the
Board and signed by the vice chairman, is attached.

PUBLIC HEARING-532 MAIN ST. SUBDIVISION



Town of Mashpee

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Mashpee Planning Board Public Hearing Notice

Pursuant to Massachusetts General Laws, Chapter 41 Section 81T and the Mashpee Rules and Regulations Governing the Subdivision of Land, the Mashpee Planning Board will hold a public hearing on Wednesday, April 6, 2022 at 7:20 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North, to consider an application by Marcello Mallegni of 80 Airport Road, Hyannis, MA 02601 for approval of 9 lot definitive subdivision plan of land consisting of approximately 18.05 acres located on Main Street (Route 130) between Nicoletta's Way and Echo Road and identified on the Mashpee Assessors Maps as Map 26 Block 6. This lot proposed for subdivision is within the C-3 Limited Commercial District, the I-1 Industrial District, and the R-5 Residential District.

Plans may be reviewed in the offices of the Town Clerk or Town Planner at Mashpee Town Hall.

Submitted by

John Fulone, Chair
Mashpee Planning Board

Publication dates: Friday, March 11, 2022
 Friday, March 18, 2022



Brian F. Garner
Christopher J. Kirrane
Jessica C. Sommer

Patricia McGauley, *of Counsel*
Kevin M. Kirrane, *of Counsel*
Elizabeth A. McNichols, *of Counsel*
Michael A. Dunning, *of Counsel*

Nicole B. Norkevicius
Christopher A. Veara

June 16, 2023

Ms. Karen D. Faulkner, Chairwoman
Mashpee Planning Board
16 Great Neck Road North
Mashpee, MA 02649

Re: 532 Route 130

Dear Chairwoman Faulkner:

As you are aware this office represents Forestdale Road, LLC in its application to approve a Definitive Subdivision Plan.

We have been advised that a draft traffic report will be completed within the next 2 to 3 weeks. Given that, I would ask that the hearing on the subdivision plan be continued from June 21, 2023 to August 2, 2023.

I would also request that the Board grant a further 120 day extension of the time frame for issuing its decision.

Thank you for your courtesies in this regard.

Very truly yours,

Christopher J. Kirrane

CJK:amb

NEW BUSINESS



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, MA 02649

DATE OF ACCEPTANCE OF SUBDIVISION CONTROL LAW:

June 21, 2023

NAMES OF PLANNING BOARD MEMBERS BY NOTICE DATED:

See Below

At their regular meeting on June 21, 2023, the Mashpee Planning Board voted to have all Board Members authorized to sign Definitive Subdivision Plans and any member authorized to sign the Board's endorsement on "Approval-Not-Required" Plans.

Those who should be authorized to sign the same are as follows:

Karen D. Faulkner

Dennis H. Balzarini

Mary E. Waygan

Dale Oakley, Jr.

Michael R. Richardson

Robert W. Hansen, Associate Member

The signatures of a majority of the above members are sufficient for approval or endorsement. In addition, the following persons are authorized to sign for the Board as indicated by the notice dated:

OLD BUSINESS

RE: Prep. for Paving at Blue Castle Dr.

Jonathan C. Croft <[REDACTED]@[REDACTED]>

Fri 6/16/2023 10:49 AM

To: Edward Pesce <[REDACTED]>; Evan Lehrer

<ELehrer@mashpeema.gov>

Cc: 'Brad Bertolo' <[REDACTED]>

Karen Faulkner <[REDACTED]>

Attention! : Links contained herein may not be what they appear to be. Please verify the link before clicking! Ask IT if you're not sure.

Good Morning guys.

LLC schedule for blue castle.

Monday or Tuesday all the driveway prep and road sweeping will be done, After that is done, I will need to have a final inspection done prior to the paving being scheduled and completed.

We had our Schedule meeting yesterday for next week and currently we are not scheduled for Wednesday, we do have some opening in the schedule for late next week for the paving, but we will need to have the final inspection done first.

Also due to the additional drainage being installed that area will need to be patched with asphalt prior to the paving date.

Jaques please let me know when the drainage is complete, PLEASE leave the gravel 2" low for the hot mix asphalt patch.

Thank you.

Jonathan Croft

RE: Prep. for Paving at Blue Castle Dr.

Bayberrybuilding@bluecastle.com <Bayberrybuilding@bluecastle.com>

Fri 6/16/2023 10:07 AM

To: Evan Lehrer <ELehrer@mashpeema.gov>; 'Edward Pesce' <Edward.Pesce@bluecastle.com>

Cc: 'Jonathan C. Croft' <Jonathan.Croft@bluecastle.com>; 'Brad Bertolo' <Brad.Bertolo@bluecastle.com>; 'Karen Faulkner' <kdfaulknerlaw@gmail.com>

 2 attachments (11 MB)

20230614_105236.jpg; 20230614_105256.jpg;

Attention!: : Links contained herein may not be what they appear to be. Please verify the link before clicking! Ask IT if you're not sure.

Good morning Evan,

Thank you for reaching out. I received your email on Tuesday, however, during the past few days, and the need to move our office trailer, our power and internet and computers were down. (Photos attached).

As you know, a site visit was conducted with the towns engineer, Jonathan from Lawrence Lynch and myself. You correctly noted that elevations of drains and driveway cuts were discussed. Additionally, due to grade height in front of Lot 10, the last home on the southerly side of Blue Castle, it was determined that remediation of the drain point would be best served by installing a gutter inlet box and connecting it directly to the nearby drainage basin. Last Monday, we sourced an available inlet box and contacted dig-safe in order to locate any utilities in the area of excavation. The start date given by Dig-safe was 6/16/2023 at 5:00 P.M. Needless to say, the plan is to install the inlet this coming Monday.

I discussed this yesterday with Jonathan from Lawrence Lynch and Jonathan indicated, weather permitting, he will have the top coat paving scheduled for this coming Wednesday, June 21st. Road shoulders were re-seeded a few weeks ago. Additionally, I took pre-emptive measures and had all drain basins fully cleaned out in advance of top coat paving. Let me know if you have any questions further information is needed.

Best regards,
Jacques Morin
Bayberry Building Company, Inc.



Town of Mashpee

*16 Great Neck Rd North
Mashpee, MA 02649*

Conservation Commission

CH.173 MASHPEE CONSERVATION LAND BYLAW VIOLATION COMPLIANCE LETTER

DATE: 6.16.23

TO: Jacques Morin
Bayberry Building Company
31 Mercantile Way
Mashpee, MA 02649

FROM: Daniel Kent
Assistant Conservation Agent
Town of Mashpee
16 Great Neck Rd North
Mashpee, MA 02649

RE: Town of Mashpee Conservation Land Policy: 69 Blue Castle Drive

Dear Mr. Morin,

The violation(s) of Mashpee's Chapter 173 Mashpee Conservation Land Bylaws that have occurred at 69 Blue Castle Drive are now considered to be fully remediated. This letter serves as notice of full compliance with enforcement protocols. We now consider the violation(s) closed out.

Sincerely,

Daniel Kent
Mashpee Conservation Agent
508-539-1400 X8538
dkent@mashpeema.gov

Warrant Article: _____

To see if the Town will vote to amend Section 174.45.4 Subsection A of the Mashpee Zoning Bylaw as follows:

In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-M, the principal dwelling unit or the proposed accessory apartment must be occupied by the the property owner as listed on the latest recorded deed. For purposes of this Bylaw, the term "property owner" shall include: every person who alone or jointly or severally with others: a) has legal title of record to any building, structure, or property subject to this Bylaw, or; b) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, member or owner of a limited liability company, trustee or guardian of the estate of the record holder of legal title; or c) is a lessor under written agreement; or d) is the mortgagee in possession; or e) is the recognized agent, trustee or other person claiming rights under the record title holder with care, charge, or control of the property as a matter of law or as appointed by the courts. On an annual basis coinciding with the initial date of issuance of the Building Permit, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate occupancy of the principal dwelling unit. Under no circumstances may the property owner rent to tenants both the principal dwelling and the accessory apartment at the same time.

Article ____:

To see if the Town will vote to amend Section 174.45.4 Subsection C of the Mashpee Zoning Bylaw as follows:

C. Unit Size

The design, installation and use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner's home. An accessory apartment may be located within the same structure as said home or constructed within a new or pre-existing detached structure. The gross floor area of the accessory apartment shall be not less than three hundred (450') square feet and shall not exceed nine hundred (900') square feet.

Warrant Article: _____

To see if the Town will vote to amend Section 174.45.4 Subsection I of the Mashpee Zoning Bylaw as follows:

I. An accessory apartment nor the principal dwelling to which it is accessory shall not be used for boarding and lodging, or other commercial use. An accessory apartment or principal dwelling to which it is accessory shall be rented for periods of at least 12 consecutive months at a time and are prohibited from any use as rental units on a monthly, weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three hundred dollar (\$300) fine each day that this violation persists

To see if the Town will vote to repeal Section 174-17.1: Raze and Replace of the Mashpee Zoning Bylaws and replace with a new Section 174-17.1 Raze and Replace as follows:

§174-17.1 Raze and Replace

A. Purpose and Intent

Buildings or structures that are dimensionally nonconforming ~~by dimension~~ are likely ~~if they are changed, extended or altered,~~ to cause overcrowding and congestion in ~~the neighborhoods if such buildings or structures are changed, extended or altered, and are contrary to the purposes of this by-law.~~ Buildings or structures that are dimensionally nonconforming ~~by dimension~~ also inhibit present and future development of nearby properties. Such impacts are contrary to the purposes and intent of this bylaw. It is generally intended that existing dimensionally nonconforming buildings or structures ~~that are nonconforming by dimension~~ shall not be permitted to further deviate ~~justify further departures from the requirements of this by-law.~~ This section is intended to clarify provide clarity to property owners and any applicable special permit granting authority ~~which changes, extensions, or alterations of a pre-existing dimensional nonconformity may be more constitute detrimental than the existing nonconforming building or structure~~ to the neighborhood in which said building or structure the proposed reconstruction is located in order as to maintain harmony with the general purposes and intent of the bylaw, preserve the character and general scale of neighborhoods.

B. General Requirements

No pre-existing, non-conforming single or two-family residential dwelling structures shall be razed torn down and rebuilt on any lot unless: a) the Zoning Board of Appeals first issues there is an issuance of a Special Permit pursuant to this section; from the Zoning Board of Appeals unless b) the proposed reconstruction qualifies for an exception -expressly provided in this Chapter; defined in this chapter or c) said residential structure is otherwise buildable pursuant to Section 174-21 ~~of this bylaw.~~ Such a special permit may be granted only if the Zoning Board of Appeals finds that any changes, extensions, alterations, or reconstruction of the pre-existing non-conformities is are not substantially more detrimental to the neighborhood than those nonconformities which existed prior to the demolition removal of the existing building or structure and that there is adequate land area within the lot to provide sufficient parking. No new nonconformities shall be permitted without the issuance of a variance in accordance with the provisions of G.L. c. 40A, §10. Reconstruction of nonconforming structures that propose new nonconformities shall not be eligible for zoning variances.

C. Findings by the Zoning Board of Appeals that may not be substantially more detrimental

1) The Zoning Board of Appeals shall consider the following criteria in support of a finding that an alteration, extension or change in an existing nonconformity is not substantially more detrimental to the neighborhood than an existing nonconformity.

a1): Increase in the footprint of a building/structure that does not comply with one or more current setback requirements required setbacks where the alteration will increase extend lot coverage or building height where a structure does not conform to current setback requirements;

b2): Increase in the lot coverage of a building/structure where the existing building/structure currently exceeds- does not exceed Maximum Lot Coverage lot coverage requirements, excluding of "coastal

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Commented [PC1]: I believe this prohibition on variances is inconsistent with the provisions of G.L. c. 40A, s.10, which provides, in relevant part, "The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating to the 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, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law." As such, it would likely be challenged by the ACO upon review of the proposed Bylaw amendment.

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Commented [EL2]: You can increase footprint (thus lot coverage, go up a story, even when there is a setback nonconformity but cant get closer to the setback,

wetlands" areas Land Subject to Coastal Storm Flow as defined in G.L. c. 131, §40 from the lot coverage calculation;

~~c3~~ Increase in building height for any building/structure with a non-conformity subject to item 1-~~(a)~~ above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item ~~1(b)2~~ above.

2) Actions Requiring a Finding of Substantially More Detrimental The Zoning Board of Appeals shall consider the following criteria in support of a finding that an alteration, extension or change in an existing nonconformity is substantially more detrimental to the neighborhood than an existing nonconformity.

~~a1~~ The creation of any new non-conformity where no non-conformity currently exists;

~~b2~~ The increase in that portion of the floor space that is non-~~conforming~~conforming by more than forty percent (40%) within any ten-year time period. (for the purposes of this section non-conforming floor space shall mean the total area of finished living space on all floors, storage space, including basements and non-conforming sheds, or uncovered porch/deck located within a required setback area).

For Example: If you have a pre-existing nonconforming dwelling with a portion of that dwelling located within the minimum required setback area and that nonconformity results in 100 square feet of floor space within that non-conforming setback area, then any reconstructed dwelling can add 40 square feet within the same setback area.

~~c3~~ The addition of floor space to a lawfully pre-existing non-conforming structure on a site that exceeds the maximum lot coverage requirements of ~~§174-31, excluding "coastal wetlands" areas as defined in G.L. c. 131, §40 from the lot coverage calculation;~~ exclusive of Land Subject to Coastal Storm Flow.

~~d4~~ The increase in the intensity of a setback non-conformity by further encroach~~ment~~ing into a setback area than that which currently exists.

~~e5~~ In the Popponesset Overlay District, any reconstruction of a single or two-family dwelling that renders any portion of the lot outside of the building footprint impervious. Previously existing impervious surfaces outside of the building footprint shall be replaced with pervious materials.

D. Exceptions

1-) The voluntary demolition and reconstruction of a single or two-family residential structure may be approved as of right by the Building Commissioner if the new structure reconstruction complies with all current setbacks, lot coverage, and building height requirements defined in 174-31 but is located on a lot with insufficient area and/or insufficient frontage where the new structure reconstruction will also comply with all of said current requirements except frontage and/or lot area.

2-) The voluntary demolition and reconstruction of a single or two-family residential structure may be approved as of right by the Building Commissioner if the new structure is built that is reconstructed within the same building footprint, at the same building height, and contains the same volume or less gross floor area as the building voluntarily demolished building. may be approved as of right by the Building Commissioner

Commented [PC3]: The Bylaw, s174-31, fn. 16, relative to Maximum Lot Coverage only refers to "wetlands" as defined in G.L. c. 131, s. 40. The statute, more specifically includes land subject to coastal storm flowage within its definition of "coastal wetlands": "The term "coastal wetlands", as used in this section, shall mean any bank, marsh, swamp, meadow, flat or other lowland subject to tidal action or coastal storm flowage."

Commented [PC4]: How do you define "that portion of the floor space"?

Commented [EL5]: If the area within the nonconforming setback totals 100 ft then the area within that setback can not increase by more than 40 s.f. floor area

Commented [PC6]: The Bylaw, s174-31, fn. 16, relative to Maximum Lot Coverage only refers to "wetlands" as defined in G.L. c. 131, s. 40. The statute, more specifically includes land subject to coastal storm flowage within its definition of "coastal wetlands": "The term "coastal wetlands", as used in this section, shall mean any bank, marsh, swamp, meadow, flat or other lowland subject to tidal action or coastal storm flowage."

MASHPEE TREE PRESERVATION BYLAW

1. PURPOSE & INTENT

The Mashpee Tree Preservation Bylaw encourages the preservation and protection of certain trees on residential, commercial and industrial lots during building activities as defined in this bylaw and monitors for their survival after construction. The preservation of existing trees and the promotion of new tree planting is a public purpose that protects the public health, welfare, environment and aesthetic character of the Town of Mashpee and its citizens. Trees serve a variety of functions that this bylaw intends to protect and enhance. These valuable functions include but are not limited to reducing energy consumption, providing shade, improving air quality, providing vital wildlife habitat, erosion control, reducing stormwater runoff, buffering noise pollution, increasing property values, and positively contributing to the visual character of the Town. This Bylaw defines which trees are of preservation value ("Protected Trees") and designates the area(s) of a lot or parcel where those trees should be protected ("Tree Yard").

This bylaw does not prohibit a landowner's right to remove any protected tree. Removal of protected trees will be authorized so long as the property owner undertakes one of the mitigation options set forth herein. This bylaw incentivizes the preservation of protected trees by requiring property owners to compensate for any Protected Trees that are removed, either by planting new ones or by contributing to a fund that supports the Town's tree planting and maintenance efforts.

This Bylaw does not discourage the removal of hazardous trees (as defined herein) for reasons of public health and safety nor does this Bylaw discourage the removal of a tree(s) that by size or otherwise is not subject to the protections set forth herein.

2. DEFINITIONS

The following words, terms, and phrases, when used in this bylaw, shall have the meaning ascribed to them in this section:

AGGREGATE DIAMETER: The combined diameter of a multiple-trunk tree measured at breast height.

BUILDING ACTIVITY: One of the following types of work performed on a lot:

- Work performed pursuant to a special permit (as defined in MGL Ch. 40A Sec. 9 and the Mashpee Zoning Bylaw)
- Work performed pursuant to site plan approval (as defined in the Mashpee Zoning Bylaw)
- Construction of a new dwelling (including after razing an existing dwelling)
- Construction of a subdivision; or

- Clearing, grading, or other site preparation work performed within 12 months prior to undertaking any of the above.

BUILDING ACTIVITY PERMIT: Any permit or approval which is required in order to perform building activity.

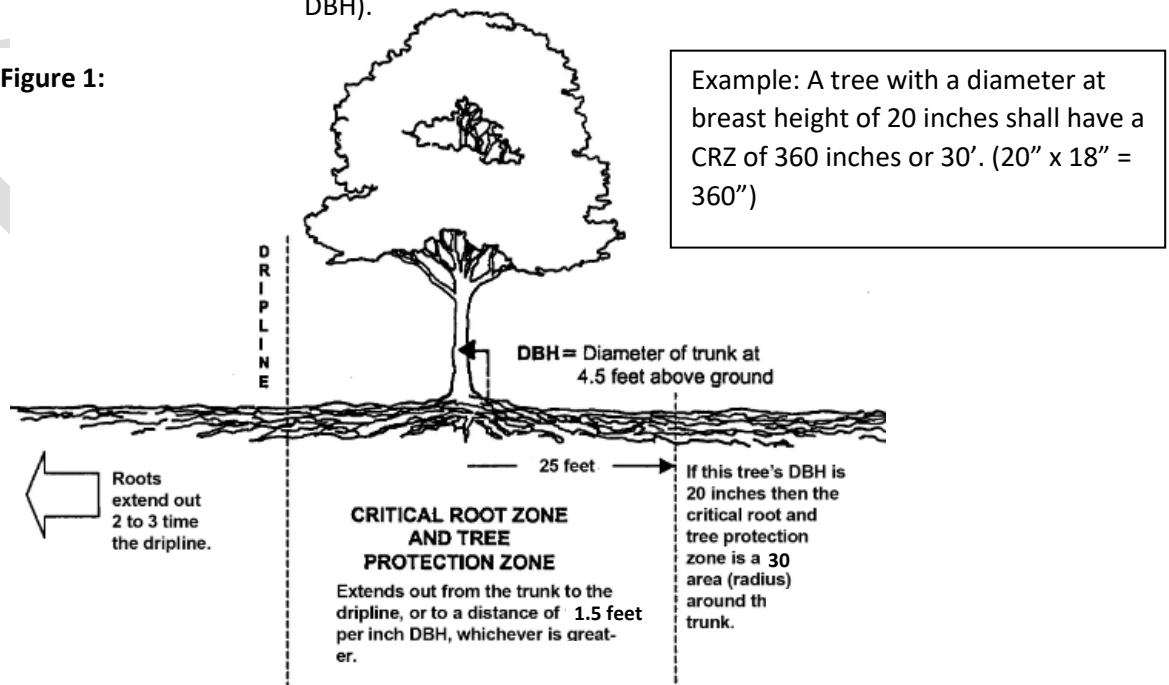
CALIPER: Diameter of a tree trunk in inches. For trees six (6") or less in diameter, the caliper is measure six inches above the existing grade at the base of the tree. For trees larger than six inches in diameter the caliper is measured 12 inches above the existing grade at the base of the tree.

CERTIFICATE OF EXEMPTION: Formal permission granted to proceed with building activity without the need for a tree permit.

CERTIFIED ARBORIST: An arborist certified by the Massachusetts Arborists Association or International Society of Arboriculture, or any successor organization.

CRITICAL ROOT ZONE (CRZ): The minimum area beneath the tree canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a circle centering on the tree's trunk and extending outwards towards the tree's dripline. The minimum radius of the CRZ shall be determined by multiplying the tree's diameter at breast height in inches by 18 (1.5 feet per inch DBH).

Figure 1:



Calculating the CRZ:

- First you need to calculate the trees Diameter at Breast Height (DBH). DBH can be measured using a caliper measuring tool, or for trees that are too large, DBH can be measured by dividing the tree's circumference by pi (π).

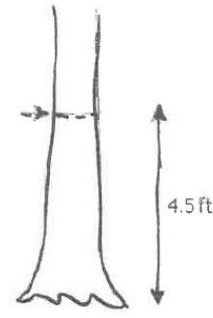
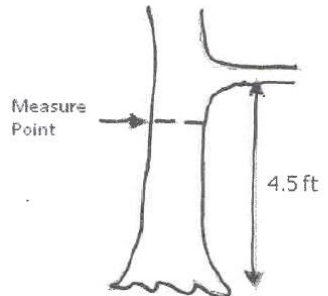
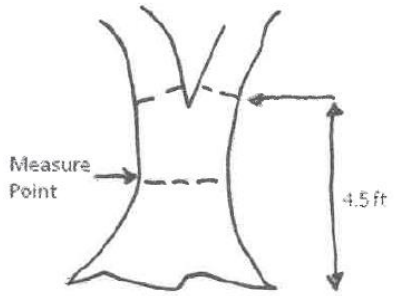
$$\text{Diameter} = \text{circumference} / \pi$$

- The Critical Root zone extends from the trunk of the tree to its dripline, or to a distance of 1.5 feet per inch DBH, whichever is greater.

$$\text{CRZ} = \text{Diameter} * 1.5 \text{ ft (18 inches)}$$

DIAMETER BREAST HEIGHT (DBH):

The diameter of the trunk of a tree 4 ½ feet above the existing grade at the base of the tree. For trees that have branches or swelling at 4.5' above grade that interferes with measurement or for multi-stemmed trees refer to the table below.

Table 1: How to measure Diameter at Breast Height (DBH)	
Standard Tree For those trees on a site that are at least 6 inches in diameter at a height of 4.5 feet above the existing grade at the base of the tree. For on a slope, measure on the uphill side of the tree.	 <p>The diagram shows a single tree trunk. A horizontal dashed line indicates the measurement point. A vertical double-headed arrow to the right of the trunk shows the height from the base to this point is 4.5 ft.</p>
Tree has branches or swelling at 4.5' Measure DBH below the branch or swelling immediately below where branches cease to affect diameter of the stem. Record the height at which the diameter was measured.	 <p>The diagram shows a tree trunk with a branch. A horizontal dashed line indicates the measurement point, which is below the branch. A vertical double-headed arrow to the right of the trunk shows the height from the base to this point is 4.5 ft. The label 'Measure Point' is next to the dashed line.</p>
Multi-stemmed Trees If a tree splits into multiple trunks below 4.5' above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.	 <p>The diagram shows a tree with multiple trunks splitting from a single base. A horizontal dashed line indicates the measurement point at the narrowest part of the trunk below the split. A vertical double-headed arrow to the right of the trunk shows the height from the base to this point is 4.5 ft. The label 'Measure Point' is next to the dashed line.</p>

HAZARDOUS TREE:	A tree that is dead, diseased, injured and/or that is dangerously close to existing structures, utilities, streets, sidewalks or other existing improvements or is causing disruption of public utility service, or poses a threat to pedestrian or vehicular safety, or drainage or passage issues upon right-of-way and/or that is harming the health or condition of other trees on the same site.
INVASIVE SPECIES:	Any tree that is listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.
OVERSTORY TREE:	A tree that will generally reach a mature height of more than 40 feet.
PROTECTED TREES:	Native trees, trees with historical significance or trees over a certain trunk diameter. Removal of protected trees shall require a permit before being removed, encroached upon, or in some cases, pruned. Invasive or likely invasive species as defined in this bylaw are not protected trees.
REMOVE, REMOVED, REMOVAL or REMOVING:	The cutting down of any protected tree and all other acts that directly or indirectly result in the death of a Protected Tree in the prior 12 months or within two years thereafter, as determined by a certified arborist based on arboricultural practices recommended by the International Society of Arboriculture, including, but not limited to, damaging, poisoning, excessive pruning or other direct or indirect actions
TREE BORDER/TREE YARD:	A defined area along the perimeter of a lot which is equal to the minimum setbacks defined in Section 174-31 of the Mashpee Zoning Bylaw.
TREE PERMIT:	Formal permission granted to proceed with any building activity that affects a protected tree.

3. APPLICABILITY

All lots in the Town of Mashpee are subject to the Tree Preservation Bylaw and the project involves at least one of the following building activities:

- Demolition of a structure(s) with a footprint of 250 SF or greater;
- Construction of a new dwelling to include razing an existing dwelling;
- Construction of a subdivision;
- Work performed pursuant to site plan approval;
- Work performed pursuant to special permit;
- Construction of a retaining wall with a height of 4 feet or greater;

- Construction of a structure or an addition that increases the Gross Floor Area squared by 50% or more;
- Work performed clearing, grading or other site preparation performed within 12 months prior to undertaking any of the above.

No person shall commence a building activity on any lot without first obtaining a Tree Preservation Permit or a Certificate of Exemption from the Planning Department via the Town Planner or her or his designee.

A. EXEMPTIONS

- (1) Any building activity not within the definition of "building activity." Example: demolition of a shed that is less than 250 square feet.
- (2) If a Certificate of Exemption has been issued by the Planning Department no Tree Preservation Permit shall be required. The granting of exemption shall be at the discretion of the Town Planner or her or his designee and shall be based on whether the building activity could potentially harm a Protected Tree. If the proposed building activity does not have the potential to harm a Protected Tree the Town Planner or designee shall issue a Certificate of Exemption.
- (3) Dead, Diseased, or otherwise hazardous Trees - If a Protected Tree is deemed to be imminently hazardous because it is dead, or infested with a disease or pest of a permanent nature or is an immediate danger to the public health, safety or welfare or shall cause an immediate disruption of public services. The tree may be removed without delay. An oral authorization from the Town Planner or designee to remove the tree shall be permitted and followed up with a written report. In the event that the emergency condition does not allow time to seek prior authorization then the emergency removal of the tree shall proceed with notification to the Town Planner sent by email or snail mail within 24 hours of said removal.
- (4) Pruning: A tree permit is not required for pruning of Protected Trees. However, excessive pruning may constitute tree removal.

Waiver: Requirements of this Bylaw may be waived by _____ during a period of emergency in the event of a tornado, flood, windstorm or other act of God.

4. IDENTIFYING PROTECTED TREES

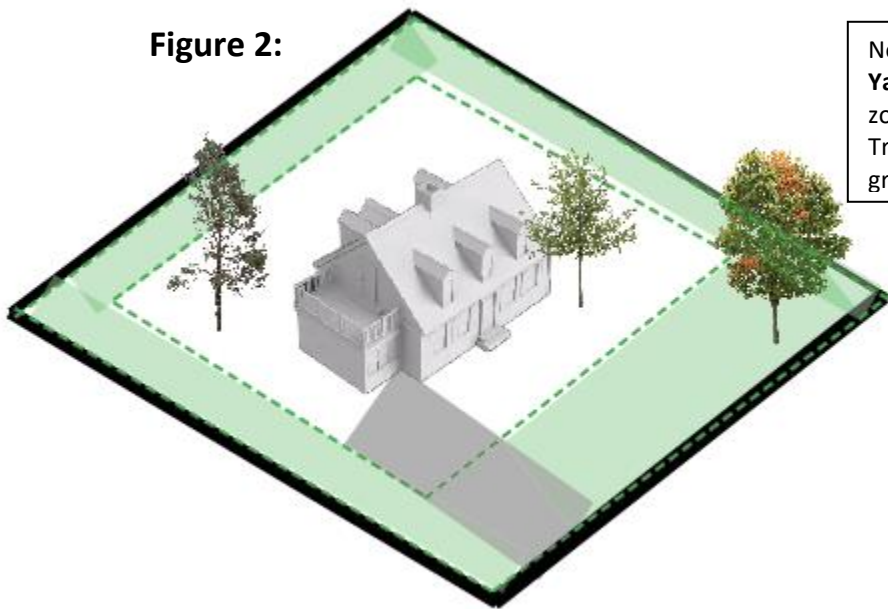
The Bylaw defines the Tree Yard/Tree Border to be equal to the minimum front, side, and rear yard setbacks as specified in Table 1 and §174-31 of the Zoning Bylaws of the Town of Mashpee. Any tree with a Diameter at Breast Height (DBH) of 6" or greater as calculated in accordance with Table 1 and within the Tree Yard is considered to be a Protected Tree. Any protected trees located within the Tree Yard are to be adequately protected and any protected trees located in

the tree yard proposed for removal shall require adequate mitigation plantings and/or payment to the Mashpee Tree Fund

Table 2 **Tree Yard Locations in Each Zoning District**

Zoning District	Minimum Tree Yard (feet)		
	Front Setback	Side Setback	Rear Setback
R-3	40	15	15
R-5	40	15	15
C-1	40	20	40
C-2	75	20	20
C-3	75	20	20
I-1	75	30	50

Figure 2:



Note: The green perimeter is the Tree Yard on this parcel - the same as existing zoning setbacks. Trees located within the Tree yard that are 6 inches DBH or greater are Protected Trees.

5. SUBMISSION REQUIREMENTS FOR A TREE PROTECTION AND MITIGATION PLAN

An approved Tree Protection and Mitigation Plan is required before commencement of any applicable building activity. The Tree Protection and Mitigation plan is intended to define the tree yard and the location(s) of protected trees within it and define how to the method with which the property owner intends on mitigating for any protected trees that are proposed for removal. This plan may be part of a landscape plan or a separate plan. At a minimum, the Tree Protection and Mitigation Plan shall include the following elements:

- a) Boundaries of the subject property, including all property lines, easements, and right-of-way of public and private ways;

- b) The location of all existing buildings, driveways, retaining walls and other improvements, with an indication of those features to be retained or removed/demolished;
 - c) The location of all planned buildings, driveways, retaining walls and other improvements;
 - d) The location of the Tree Yard for projects located in the subject zoning district;
 - e) The location, height, DBH, and species of all existing Protected Trees and all Protected Trees that were removed within twelve (12) months prior to application with an indication of those Protected Trees to be removed and those to be retained, if applicable;
2. All plans must be drawn to a uniform scale (preferably 1"= 10', 1" =20', or 1"=30'). All plans shall be a minimum size of 11" x 17" (preferred) and a maximum size of 24" x 36", with 3/4" borders. Letter sizes on plans should be no smaller than 1/8".
3. All Tree Protection and Mitigation Plans shall be prepared, stamped, dated and signed by a Registered Land Surveyor. If a plan is submitted by a Registered Landscape Architect, the plan must also be stamped by a Registered Land Surveyor.

6. ADDITIONAL REQUIREMENTS TO BE SUBMITTED

- A. If Protected Trees are intended to be preserved, protected, and retained, the following elements must be added to the Plan:**
- 1. The Critical Root Zone, Drip-Line and location of the Tree Save Area shall be shown for all Protected Trees to be retained. **(See Figure 1 above in definitions section).**
 - 2. Submitted plans shall specify the tree protection measures to be installed around the Critical Root Zone.
 - 3. Prior to the commencement of construction, written documentation prepared, stamped, dated and signed by a Certified Arborist must be submitted to the Planning Department confirming the protection measures have been installed correctly and in accordance any approved plans.
 - 4. Projects that encroach within the CRZ require a maintenance plan which shall be submitted for such trees, prepared, stamped, dated and signed by a Certified Arborist; at a minimum, the maintenance plan shall identify the course of action that will be taken to maintain the tree in good health for a period of no less than twenty-four (24) months from the date of Final Inspection or issuance of Certificate of Occupancy.

B. If Protected Trees are intended to be removed and compensated for on-site by replanting new trees, the following additional elements must be added to the Plan:

1. The location, caliper, species, and planting schedule of trees to be replanted to mitigate the removal of a Protected Tree(s). One -half (0.5) inches of caliper of new trees is needed to mitigate for each inch at breast height of Protected Trees proposed for removal.

Example: The removal of a 20 inch DBH Protected Tree shall require 10, 2 inch DBH replacements.

2. Each new tree must have a minimum caliper of 2 inches.
3. Replanting must be complete prior to Final Inspection or the issuance of a Certificate of Occupancy.
4. Applicants have the ability to plant on land abutting the applicant's land, with the express written approval of the abutting property owner.
5. Overstory Tree species, if removed, must be replaced with an Overstory Tree species.
6. Invasive tree species as defined in this bylaw shall not be replanted to mitigate the removal of a Protected Tree and no invasive species will be accepted as mitigation toward the removal of a protected tree.

C. If Protected Tree removal is permitted but replanting trees as defined above is not the preference of the property owner than mitigation may be effected through contribution into the Town of Mashpee Tree Fund as follows:

1. The Town Planner or designee shall determine the amount of the contribution based upon the cost to purchase and install trees. An applicant who has been granted a Tree Permit may choose, in lieu of replanting onsite, to make a contribution to this Fund in an amount equal to planting replacement tree(s). The applicant shall provide to the Board price quotes/estimates from a garden center/nursery for the purchase of trees to establish the required dollar amount as well as from a qualified landscape professional for installation.
2. All sums deposited into the Tree Replacement Fund shall be used for the sole purpose of buying, planting and maintaining trees on public property in Mashpee, and for no other purpose whatsoever.
3. At least once a year the Town Accountant shall audit the receipts and expenses of the Tree Replacement Fund to ensure accuracy and propriety of its transactions.

7. COMBINATION OF OPTIONS

Any combination of Tree Retention, Tree Replanting or Tree Removal with contribution to the Tree Bank can be used. Tree mitigation for those trees removed must be clearly identified either on the submitted plan or in a written document accounting for each DBH of Protected Trees removed and the mitigation proposed. This is not required for tree retention of all trees in the Tree Yard.

8. ADMINISTRATION OF BYLAW

The Town Planner or designee shall administer, implement and enforce this bylaw and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the Town Planner may be delegated to its agents under the Board's direct supervision.

9. AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes.

10. RULES AND REGULATIONS

The Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Such rules may prescribe the size, form, contents, style and number of copies of plans for determining final compliance with these regulations. The adoption or amendment of rules and regulations shall be after a public hearing to receive comments on the proposed or amended rules and regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

11. NOTICE OF VIOLATION

Any person who violates any of the provisions of this Bylaw shall be notified by the Town Planner or designee of the specific violation by certified mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and the date by which the Protected Tree(s) is to be mitigated, by planting a replacement tree(s) or payment to the Tree Fund, for purposes of computing the "per diem" violation rule. Any notice of violation shall also be transmitted to the Mashpee Building Commissioner.

12. STOP WORK ORDER

Upon notice from the Town Planner or designee that work on any lot on which a Protected Tree is located is being performed contrary to the provisions of this Bylaw, a written Stop Work Order shall be given to the owner or agent or the person performing work on the property by the Building Commissioner. The Stop Work Order shall state the conditions under which work will be permitted to resume. Upon receipt of the Stop Work Order all work on the subject property that might affect any Protected Trees must cease while a stop work order is pending.

A person, having been served with a stop work order, may be directed to perform work on the said Protected Tree property to remove a violation or unsafe condition.

13. SUSPENSION OR REVOCATION

The Town Planner or designee may suspend or revoke the applicant's Tree Permit at any time if the permit holder has failed to comply with either the Bylaw or the conditions of the permit. Notice may be made via certified or registered mail, return receipt requested, or hand delivered. The notice must provide the applicant an opportunity to correct the non-compliance. This may include remediation or other requirements identified by the Town Planner or authorized monitoring agent, such as the Code Compliance Inspector. Once the project is returned to compliance or remediation completed, if practicable, the applicant may apply for a renewal of the tree permit.

14. IRREPARABLE DAMAGE

If the Town Planner or designee determines that the applicant damaged a tree approved for Retention and Protection during construction to an extent that may significantly compromise its survival and future health, the Town Planner or designee may require the applicant to provide mitigation per the terms of the Bylaw.

15. NON-CRIMINAL FINES

If the Town Planner or authorized monitoring agent, such as the Code Compliance Inspector, identifies any issues of non-compliance, fines will accrue per the Bylaw if not corrected within 30 days. Each consecutive day the non-compliance continues is considered a separate offense.

16. FINES AND PENALTIES

The following actions shall cause the Planning Department to issue a fine to the applicant:

- A. A Protected tree has been removed without a Tree Permit: The fine shall be in addition to the required payment for the replacement of the tree(s).
- B. Failure to replace trees or make payment to the Tree Fund as required: Each failure to replace a tree or make a payment to the Tree Fund constitutes a separate violation of this Bylaw, subject to a fine. Each day such violation continues after the compliance date specified by the Planning Department in its notice of violation shall constitute a separate offense.
- C. Failure to comply with a condition of the Tree Permit: Each instance of failure to comply with a condition in the Tree Permit shall constitute a violation of this Bylaw which shall be subject to a fine. Each day such violation continues shall constitute a separate offense.
- D. Failure to comply with a condition in a stop work order: Each instance of failure to comply with a condition in a stop work order shall constitute a violation of this Bylaw which shall be subject to a fine. Each day such violation continues shall constitute a separate offense.

Fines for the above violations are as follows:

- First offense = \$100 per day
- Second Offense = \$200 per day
- Third Offense = \$300 per day

17. SEVERABILITY

The provisions of this Bylaw are severable. If any section, provision or portion of this Bylaw is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this Bylaw shall continue to be valid.

18. CONFLICT OF LAWS

This Bylaw shall not apply to any public shade tree as that term is defined by the General Laws, Chapter 87, and to the extent that any provision hereof conflicts with said Chapter 87, such provision shall not be valid. Nothing herein is intended to conflict with existing special-permit procedures and to the extent that any provision hereof conflicts with said special-permit procedures, such provision shall not be valid.

19. COMPLIANCE WITH ALL STATE AND LOCAL REGULATIONS

Complying with the terms of this Bylaw shall not relieve the owner of the subject property from complying with any other pertinent regulation, including but not limited to all state and local wetlands-protection regulations.

20. ENFORCEMENT

The Town Planner or designee is hereby authorized to enforce all provisions of the Mashpee Preservation Tree Bylaw and may designate monitoring and enforcement agents to include but not be limited to the Code Compliance Officer, the Town Planner, the Conservation Agent, Building Inspector/Commissioner.

21. APPEALS

Any person who has been aggrieved by refusal, order, or decision of the Town Planner or designee, may appeal to the Planning Board within 20 days from the date of such refusal, order or decision.

NOTICES



**TOWN OF FALMOUTH
MASSACHUSETTS**

BOARD OF APPEALS

Notice of Decision

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Mary Hayes Doyle and Joseph M. Doyle, 33 Sandpiper Circle, East Falmouth, MA.

(Map 40 Lot 161A) under 240-11.3A(4) of the Zoning By-Law, as amended to **grant** the special permit to convert the existing garage into habitable space and construct a new attached garage exceeding 20% lot coverage by structures.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **June 8, 2023** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460
or Noreen.stockman@falmouthma.gov if you have any questions or comments
full text of decision available at <http://www.falmouthmass.us>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application #044-23 Dennis R. and Ariana Delaney, 87 Lake Street, Sherborn, MA.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A of the Code of Falmouth to construct an addition to the existing non-conforming single-family dwelling on subject property known as 90 Priscilla Street, Teaticket, MA.

Map 39A Section 16 Parcel 000 Lot(s) 050

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, June 29, 2023 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application #041-23 Joseph G. and Gitta M. Ferra, Trustees, 26 Lummis Lane, West Falmouth, MA.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A and 240-6.6B of the Code of Falmouth to raze the existing, non-conforming, detached garage and rebuild a 3-car garage with habitable space above. The subject property is 26 Lummis Lane, West Falmouth, MA.

Map 24 Section 21 Parcel 001 Lot(s) 006

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, June 29, 2023 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application #040-23 Shea M. and Jennifer V. Quinn, 32 Frederick B. Douglass Road, North Falmouth, MA. Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-6.6 of the Code of Falmouth to allow a third garage bay. The subject property is 32 Fredrick B. Douglass Road, North Falmouth, Ma.

Map 02 Section 07 Parcel 008 Lot(s) 006

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, June 29, 2023 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



**TOWN OF SANDWICH
PUBLIC HEARING NOTICE
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a Public Hearing on the application of 100 Salt Marsh Realty Trust, Applicant, and 100 Salt Marsh Road Realty Trust, Joseph Kennedy, Trustee, Property Owner, for a Special Permit under Section 4300 of the Sandwich Protective Zoning By-Law for property located at 100 Salt Marsh Road, East Sandwich, MA Assessor's Map #85, Parcel #009 for the purpose of rebuilding a single-family dwelling in the floodplain. The Public Hearing will be held on June 27, 2023 at the Sand Hill School Community Center, 16 Dewey Ave, Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 100 Route 6A, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

James Killion, Chair
Sandwich Board of Appeals
Publication: Sandwich Enterprise
Publication Dates: June 9 and June 16, 2023

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Planning Board

100 Route 6A
Sandwich, MA 02563
Phone: 508-833-8001
E-mail: planning@sandwichmass.org

TOWN CLERK
TOWN OF SANDWICH

JUN 09 2023

6 H 51 M AM
RECEIVED & RECORDED

**Special Permit Amendment
Large Scale Ground Mounted Solar Photovoltaic Special Permit
Certificate of Approval**

Property Address: 180 Cotuit Road, Sandwich, MA 02563
Name of Applicant: ASD Cotuit MA Solar
Property Owner: Andrew E. Degraw Jr. & Ann Degraw Swaim, Trustees
Certificate of Title: 226320
Plan #: 34769-A

On June 6, 2023, the Planning Board voted to grant an amendment to a special permit to ASD Cotuit MA Solar for property located at 180 Cotuit Road, as shown on Assessor's Map 13, Parcel 44 Sandwich, MA to allow a large-scale ground-mounted solar photovoltaic installation.

The Planning Board certifies that the decision attached hereto is a true and correct copy of its decision to grant a special permit and that copies of said decision have been filed with the Planning Board and the Town Clerk. The Planning Board also calls to the attention of the owner or applicant that General Law, Chapter 40A, Section 11 provides that no special permit, or any extension; modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that registered decision shall be returned to the Planning & Development office as proof of filing.

Any person aggrieved by this decision may appeal to the Superior Court or Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.


Planning Board Member

6/9/2023
Date

PROCEDURAL HISTORY

1. An application was filed on November 19, 2019 by ASD Cotuit MA Solar for a special permit to install a Solar Photovoltaic Ground mounted system greater than 250 kW under Sandwich Protective Zoning By-law Section 4180 for property located at 180 Cotuit Road, Sandwich, MA.
2. On November 21, 2019 Sandwich Building Commissioner referred the project to the Cape Cod Commission for a Development of Regional Impact review.
3. On May 14, 2020 the Cape Cod Commission approved the project with conditions.
4. After proper notice was given the public hearing was opened on August 18, 2020 and continued to September 1, 2020. Due to a scheduling error the application was re-advertised and the public hearing was opened on October 6, 2020 and closed on October 6, 2020.
5. The application was accompanied by a Site Development Plans that was entitled: Proposed Site Development Plans at 180 Cotuit ROAD Sandwich, Massachusetts prepared by Cape and Islands Engineering dated May 6, 2019 and further revised to September 1, 2020.
6. The Board reviewed the application, the plan and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
7. The following members attended the public hearing and are eligible to vote on the decision:

Matthew Cubetus
Jeffrey Picard
Robert King
James Kalweit*
Jennifer Reisig
David Darling
Mark Callahan

*Missed one meeting, but listened to the full audio recording and reviewed all materials in the project file which allows the member to participate in the deliberation of this decision under general law c. 39.

8. An applicant for an amendment was filed on April 1, 2022 to change condition number 6 to extend construction hours to 7am to 5pm Monday-Friday.
9. An application for an amendment was filed on May 17, 2023 to change condition number 13 allowing red cedars to be planted.
10. The following members attended the public hearing and are eligible to vote on the amendment:

Jennifer Reisig
Paul Coteus
Jeffrey Picard
Melissa Dugan
Anne McManus
Nicole Ouellette

FINDINGS

1. The applicant is proposing to install a 5 MW solar photovoltaic array.
2. The subject property lies within the R2 zoning district.
3. The subject property has 18.8 +/- acres and approx. 1309.40 feet of frontage on Cotuit Road.
4. The application was referred to the Cape Cod Commission as it met the threshold for a Development of Regional Impact (DRI) review. The Commission approved the project with conditions on May 14, 2020.
5. The Property shall be donated by deed in fee simple to the Town of Sandwich.
6. The Planning Board makes the following findings with respect to Section 1330 requirements:
 - a. The Planning Board does not find that there are conditions peculiar to this case but not generally true for similar permitted uses on other sites in the same district
 - b. The Planning Board finds that nuisance, hazard or congestion will not be created
 - c. The Planning Board finds that there will not be substantial harm to the neighborhood
 - d. The Planning Board finds that there is no derogation from the intent of the bylaw such that the districts' objectives will not be satisfied
7. The application for special permit substantially conforms to Section 4180 of the Zoning By-Laws.
8. All components of Section 4186 have been included with the application to the satisfaction of the Planning Board; however, this does not preclude the Building Commissioner from requiring more detailed documentation before issuing a building permit.
9. The application meets requirements for of Section 9, MGL c. 40A.
10. The applicant is proposing an 8 foot fence on the property. Under Section 3560 a fence cannot exceed 6 feet unless a special permit is granted by the Zoning Board of Appeals. The applicant has stated that they will apply for a special permit.
11. The board finds that arborvitaes are not a natural pollinator. Red cedar is the preferred species as a native pollinator.
12. The applicant is following the UMass Clean Energy Extension Pollinator-Friendly Certification program.

Motion: I, Paul Coteus, move to adopt these amended findings as the findings of the Planning Board for 180 Cotuit Road, Sandwich MA.

Second: Melissa Dugan

Vote: Jennifer Reisig	Yes
Paul Coteus	Yes
Jeffrey Picard	Yes
Melissa Dugan	Yes
Anne McManus	Yes

Nicole Ouellette Yes

CONDITIONS

At the public hearing, the Planning Board considered potential conditions of approval for this special permit. The Planning Board voted that the following conditions of approval shall be imposed upon any approval of a special permit and that these conditions are reasonable and that the applicant and its successor-in-interest shall be bound by these conditions:

1. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit, or
 - If no substantial construction or occupancy takes place within (12) twelve months of special permit approval, excluding such time required to pursue or await the determination of an appeal referred to in MGL C 40A, Section 17.
2. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Planning Board.
4. All documents submitted pursuant to Section 4186 of the zoning by-law shall be revised to the satisfaction of the Building Commissioner prior to receiving a Building Permit
5. Per Section 2600 (m) the applicant must maintain a rear and side yard setback of 100 feet.
6. Construction hours shall be defined as 7 a.m.-5 p.m. Monday-Friday with no noise nuisance activities from 7am – 8am. Construction on a Saturday shall be prohibited unless expressly authorized by the Building Commissioner.
7. Noise shall not exceed the standard cited in 310 CMR 7.10.
8. The fence shall be maintained in good condition as proposed in the application.
9. Vegetative cover shall be reestablished within one year of substantial completion of the project to the satisfaction of the Building Department in consultation with Engineering Department.
10. The shipping container shall be free from any advertisements and blend into its surroundings by using natural color tones.
11. A driveway bond shall be provided for in an amount and form determined to be reasonable by the Engineering Dept.
12. The panels are to be cleaned with water only. Any deviation from water will require the approval of the Planning Board.
13. Red Cedars shall be planted outside of the fence to screen the panels from the abutters to comply with UMass Clean Energy Extension Pollinator-Friendly Certification.
14. Prior to the issuance of a building permit, the applicant shall stake the 100 ft. buffer and submit a certified survey, ensuring compliance with the 100 ft. buffer,

to the Building & Engineering Department. The Engineering Dept. and/or Tree Warden can inspect the property if deemed necessary.

15. After substantial construction and before issuance of an occupancy permit, the applicant shall meet with the Sandwich Fire Safety Officer regarding emergency access to the facility and familiarization of all electrical systems and operator contact information. Written confirmation of this meeting shall be submitted by the fire safety officer, as well as full written approval that all emergency access and application standards satisfy the Sandwich Fire Safety Officer before issuance of an occupancy permit.

16. The project shall be constructed, operated and maintained in compliance with:

- Exhibit B Proposed Site Development Plans at 180 Cotuit ROAD Sandwich, Massachusetts prepared by Cape and Islands Engineering (revised 09/01/2020),
- Exhibit C Stormwater Management Design prepared by Cape and Islands Engineering revised August 29, 2019,
- Exhibit D Invasive Species Management Plan prepared by LEC dated July 25, 2019,
- Exhibit H Preliminary Operations and Maintenance Plan
- Exhibit I Battery System Information and Emergency Response Plan
- Exhibit J System Components (Manufacturing Specifications Sheets)
- Site Plan Single Driveway Layout Alternative dated August 24, 2020
- Graphic Site Plan Supplemental Screen Plantings dated October 5, 2020. However, the screening shall wrap around the easterly side of the property.

17. Prior to the issuance of a building permit, town Engineering and Building Departments will work in conjunction with the applicant to finalize the decommissioning bond and present the final bond to the Planning Board. The Planning Board shall revise the bond every 5 years.

Motion: I, Paul Coteus, move to impose the above-amended conditions of approval upon any approval of the special permit.

Second: Melissa Dugan

Vote: Jennifer Reisig	Yes
Paul Coteus	Yes
Jeffrey Picard	Yes
Melissa Dugan	Yes
Anne McManus	Yes
Nicole Ouellette	Yes

Decision

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the special permit amendment application to install a Solar Photovoltaic Ground

mounted system greater than 250 kW under Sandwich Protective Zoning By-law Section 4180 for property located at 180 Cotuit Road, Sandwich, MA.

Motion: I, Jennifer Reisig, move to approve the special permit amendment in consideration of the findings and in reliance upon the conditions of the Planning Board as stated herein.

Second: Paul Coteus

Vote:	Jennifer Reisig	Yes
	Paul Coteus	Yes
	Jeffrey Picard	Yes
	Melissa Dugan	Yes
	Anne McManus	Yes
	Nicole Ouellette	Yes

Town of Sandwich

THE OLDEST TOWN ON CAPE COD



Board of Appeals

100 Route 6A
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
E-mail: planning@sandwichmass.org

TOWN CLERK
TOWN OF SANDWICH

JUN 14 2023

Special Permit Amendment Certificate of Approval

10 H 35 M A MSL
RECEIVED & RECORDED

Petition #:

23-12

Applicant/Property Owner(s): PJR Realty Trust, Pasquale J. Russo IV and
Pasquale J. Russo III Trustees

Property Address: 145 Route 130

Map, Parcel: 17-9

Certificate #: 188026

On June 13, 2023, the Board of Appeals voted to approve/deny a special permit amendment from section 2420 of the Sandwich Zoning By-law for property located at 145 Route 130, as shown on Assessor's Map 17, Parcel 9, for the purpose of expanding non-conforming uses to allow for contractor bays.

The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to approve a special permit and that copies of said decision, and of all plans referred to in the decision, have been filed with the Board of Appeals and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that registered decision shall be returned to the Planning & Development office as proof of filing. Any person aggrieved by this decision may appeal to the Superior Court or Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.

Board of Appeals Member

6/14/2023

Date

PROCEDURAL HISTORY

1. An application was filed on May 19, 2023 under section 2420 of the Zoning By-Law for property located at 145 Route 130.
2. After proper notice was given the public hearing was opened on June 13, 2023 and closed on June 13, 2023.
3. The application was accompanied by a Plot Plan entitled:
Plot Plan – Proposed Building
#145 Route 130 Sandwich Massachusetts
Prepared for PJR Realty Trust
Dated: October 13, 2022 and revised March 7, 2023 and June 9, 2023
4. The Board reviewed the application and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
5. The following members attended the public hearing:

James Killion
Christopher Neeven
Chase Terrio
Robert Jensen

FINDINGS

The Zoning Board of Appeals finds that:

1. The Board of Appeals finds that this application meets the requirements of Section 9, M.G.L. Chapter 40A.
2. Subject property is located within the R-2 Zoning District.
3. The property consists of 17.137 acres with 303.80 ft. of frontage on Route 130.
4. The applicant wishes to expand a non-confirming business use by adding a 7200 s.f. building with 4 contractor bays.
5. The site is being used as a contractor yard, retail store, office and landscape company.
6. The property was devastated by fire in 2020.
7. The placement of the proposed building will comply the required setbacks.
8. There are several special permits on file for this property:
 - a. Special Permit #73-47 authorizing the construction of an office, garage and retail outlet building. The use was permissive in a General Use area at that time.
 - b. Special Permit #75-02 authorizing the construction of a greenhouse
 - c. Special Permit #80-28 authorizing a change of use from retail to office in a non-confirming structure and construct a 30x36 addition to be used for retail.
 - d. Special Permit #16-01 authorizing the construction of a second principal building to be used as a residence.

9. The applicant has provided evidence to confirm that the use is a lawful pre-existing non-conforming use.
10. Under Section 3120, 36 parking spaces are required, one space per 200 s.f. The applicant shall provide 36 spaces.
11. The expansion of the non-conforming use is not more detrimental to the neighborhood than what is currently existing.
12. Section 1330 requirements:
 - a) The Board of Appeals does not find that there are conditions peculiar to this case but not generally true for similar permitted uses on other sites in the same district;
 - b) The Board of Appeals finds that nuisance, hazard or congestion will not be created;
 - c) The Board of Appeals finds that there will not be substantial harm to the neighborhood;
 - d) The Board of Appeals finds that there is no derogation from the intent of the bylaw such that the districts' objectives will be satisfied.

Motion: I, James Killion, move to adopt these findings as the findings of the Board of Appeals.

Second: Christopher Neeven

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Robert Jensen	Yes

CONDITIONS:

At the public hearing, the Board of Appeals considered potential conditions of approval for the special permit. The Board of Appeals voted that the following conditions of approval shall be imposed upon any approval of a special permit and that these conditions are reasonable and that the applicant and its successor-in-interest shall be bound by these conditions:

1. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
2. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - a) Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit, or
 - b) If no substantial construction or occupancy takes place within (3) three years of special permit approval, excluding such time required to pursue

or await the determination of an appeal referred to in MGL C 40A, Section 17.

3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Board of Appeals.
4. The previous listed conditions in Special Permits #73-47, #75-02, #80-28 and #16-01 shall remain in effect.
5. Erosion control measures shall be maintain throughout construction.

Motion: I, James Killion, move to impose the above conditions of approval upon any approval of the special permit.

Second: Christopher Neeven

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Robert Jensen	Yes

DECISION:

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the special permit amendment for property located at 145 Route 130, as shown on Assessor's Map 17, Parcel 9, for the purpose of expanding non-conforming uses to allow for contractor bays.

Motion: I, James Killion, move to approve the special permit amendment.

Second: Christopher Neeven

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Robert Jensen	Yes