



# Town of Mashpee

# Planning Board

16 Great Neck Road North  
Mashpee, MA 02649

## Meeting of the Mashpee Planning Board

Wednesday, July 5, 2023; 7:00 PM

Waquoit Meeting Room

Mashpee Town Hall

16 Great Neck Road North

Mashpee, MA 02649

\*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 21, 2023

### Approval Not Required (ANR)

**Applicant:** John and Carla Mullen, Trustees  
Carla E Mullen 2012 Trust

**Location:** 188 Pimlico Pond Road, Mashpee, MA 02649  
Assessor's Map 2 Parcels 191 and 192

**Request:** Purpose of the ANR is to Divide Lots 1 and 2 as shown on the plan creating new Lots A and B. The remaining area of Lot 1 after division will be combined with Lot B and the remaining area of Lot 2 after division will be combined with Lot A.

### Public Hearings

7:10 PM (Continued from 06/21/2023)

**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.

### New Business

- Vote to set Public hearing date for special permit application submitted by Cellco Partnership d/b/a Verizon Wireless for a proposed personal wireless service facility (cell tower) at 524 Great Neck Road North (Assessor's Map 67 Parcel 4).
- Review and possible vote to accept invoices submitted by Ed Pesce Engineering and process payment.

### Old Business

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

### Board Engineer Report

- Project Reviews and Inspections

### Chairman's Report

MASHPEE TOWN CLERK  
JUN 29 '23 PM3:25



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- 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

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

### Additional Topics (not reasonably anticipated by Chair)

### Adjournment

MASHPEE TOWN CLERK  
JUN 29 '23 PM3:26



# *Town of Mashpee*

## *Planning Board*

16 Great Neck Road North  
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### **Mashpee Planning Board**

#### **Minutes of Meeting**

**Wednesday, June 21, 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- Chief Development Officer at Willowbend, Chad Smith- Chairman of the Sewer Commission

### **CALL TO ORDER**

Chairwoman Faulkner called the meeting of the Planning Board to order at 7:00P.M. A moment of silence was held for Ray Jack, consulting wastewater engineer, who was very knowledgeable about sewer and an all-around great human. The Pledge of Allegiance was recited.

### **APPROVAL OF MEETING MINUTES – June 07, 2023**

No comments were made regarding the meeting minutes for June 07, 2023.

### **MOTION:**

**Mr. Balzarini made a motion to approve the meeting minutes for June 07, 2023 as written. Seconded by Mr. Richardson. All in favor.**

### **PUBLIC HEARINGS**

#### **7:10P.M. (Continued from 06/07/2023)**

**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



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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 representing Southworth, is here tonight with Matt Eddy to hold two separate Public Hearings. First is an update of a continued Public Hearing on the Cranberry Point project. The second is related to the modification of the bedroom count cap included in the 1991 permit. Starting with Cranberry Point, not much has happened, with no formal changes in the plan. The Conservation will review the process with Mr. Eddy in the coming weeks.

Mr. Eddy went through changes to the site plan last time, and those changes were brought to the ConCom. The Commission is hiring a third party reviewer to look at the overall project. Drew McManus submitted a contract to the Town Manager and it is currently under review. One thing he would like to clarify, at the Public Hearing two weeks ago he stated during the Conservation Commission review, Drew stated he felt this project was a net environmental benefit. It was questioned later in the meeting that was never said, but after holding many conversations with Mr. McManus, he still feels as though they are on the same page.

Mr. McElhinney recognized that several Board members have reservations about the current layout of the project. They are prepared to withdraw the Cranberry Court without prejudice, and request to continue this Public Hearing. They would like to have a discussion about the bedroom count, and if that is a favorable conversation they would prepare to withdraw. They would intend to refile, but they have some work to do in addressing concerns. The bedroom count is the central issue they would like to focus on.

### **MOTION:**

**Mr. Balzarini made a motion to continue this Public Hearing to 7:30P.M. Seconded by Ms. Waygan. All in favor.**

**7:15P.M.**

**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.



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Mr. McElhinney stated the bedroom count was a surprise to them when it was brought to their attention. In context to the project, its ancient history. Southworth has never built a single unit that has not been approved by this Board. There has never been any discussion of the bedroom cap in any of the 35 modifications since 1991, in all 32 years. We acknowledge it is there. The bedroom count from 1991 being 853, memorialized the bedroom limit that was set by DEP when the original approval of capacity was set for the groundwater discharge plant. DEP uses a calculation of 110 gallons per day, per bedroom. The original components proposed a plant size built at 113,000 gallons that included 853 bedrooms and other uses, such as locker rooms and the restaurant associated with the golf club. The DEP reviews each connection and extension. Since 2006, the DEP allowed additional bedrooms beyond the cap, based on the developer's demonstration, showing more than adequate capacity in the plant to handle those flows. The plant today has over 1,000 bedrooms connected to it, at its height occupancy in the summer, it typically runs 60-65,000 gallons per day, and during July 4<sup>th</sup> 80,000. Design capacity goes to 113,000 gallons per day, but the actual physical capacity is 130,000 gallons per day. There is plenty of room. Willowbend sought to connect everything done there and beyond to the plant. They connected 200 bedrooms at Cotuit condos, their septic was failing and the pump runs all the way up to the plant. All of Pleasant Park lots and Shoestring Bay lots, which are not technically part of the Special Permit, are connected. He is not suggesting they deserve to be sainted for that, it was conditions on approval, and their philosophy has been to connect everything. Since 2006, DEP allowed those connections and the agreement stands they will be allowed to add until it cannot exceed 80% of permitted capacity on a rolling 30 day basis. They were transparent in terms of what was being built, and none of that was memorialized in the permit. Bedroom count is an irrelevant request of the Board to modify, or to state total bedrooms permitted. Wastewater flow governs the bedroom count, and DEP regulates all of this under their groundwater discharge permit.

Mr. Pesce repeated the treatment plant won't exceed 113,000 gallons per day. They are currently at 65,000+/- gallons per day, and 80,000 gallons per day on July 4<sup>th</sup>, the absolute highest peak flow. He thinks the checks and balances Mr. McElhinney provides are sufficient, they don't build any units without this Board's approval, in their special permit area. Suitable language could be placed, as another check and balance, he wants to be sure nutrient loading from wastewater is also included in the review by DEP. The restriction of operating capacity for the treatment plant is its own corrective policing.

Ms. Faulkner did consult with Town Counsel regarding the 853 bedroom cap, they are already over by 140+ bedrooms. She posed the question, at the time of the publication of the Public Hearing notice for the original proposed 14 units, were they aware they were over the 853 cap?



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Mr. McElhinney was not aware of the bedroom cap but he was aware of units being approved. Ms. Faulkner referenced the modification of the Special Permit decision signed by the Vice Chair of the Planning Board on November 12, 1991. In modification to special permit IV, the Board voted on November 6, 1991 to grant proposed modifications and modify permit adding a new condition to the total number of residential units shall not exceed 287, and total number of bedrooms, not including dens, studies, or family rooms, shall not exceed 853.

Mr. McElhinney stated it has never been discussed by this Board, a neighborhood was added with four units, and the previous Town Planner consistently and particularly tracked the number of units. He did not track the bedrooms, nobody was.

Mr. Balzarini knows the previous Planner was always concerned about bedrooms and the water. Being on the Board for 22 years, they always gave Willowbend what they wanted, they should've been the ones to bring that to the Board's attention.

Ms. Faulkner noted 140+ extra bedrooms, and with 12 units you can build 3 bedrooms each, adding 36 more bedrooms brings the total to roughly 1,024 total bedrooms. She will follow Town Counsel's advice and certify the number of bedrooms. It's her understanding the only way they can do this is to take a physical count of the bedrooms. Is he willing to permit the Building Department to take a count? The Building Commissioner is the Zoning Enforcement Officer, someone with a badge would physically go to the homes and do a bedroom count.

Mr. Balzarini stated the building permit will say how many bedrooms and they can then go confirm.

Ms. Waygan noted it will be time consuming.

Ms. Faulkner commented it could take two weeks to complete so time is a consideration. There is also a significant cost that will be imposed on the Building Department.

Ms. Waygan stated their consulting engineer may have the capacity to assist the Building Department with this task.

Mr. McElhinney doesn't have the authority to gain access to anyone's home. He asked what the objective was for doing this. All these homes are connected to the sewage plant, he has explained this volume has been approved by DEP. He objects to the insinuation that he was lying about knowing about the bedroom count, he is almost certain nobody would find a reference to a bedroom cap since 1991, because it has never been brought to his attention.



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Mr. Lehrer commented that Town Counsel asked Willowbend to do the best they can in working with the neighborhood and associations to get the best possible access and make an effort. The Board is not in a position to waive the condition without knowing with absolute certainty what the existing condition is. He would affirm, 1991 is the most recent reference to bedroom cap in the history of the permit.

Mr. McElhinney stated if they could get 50% participation that would be high. People like their privacy. Would you be willing to let someone in and inspect your home? He doesn't understand the ultimate goal. Someone could have a room in their basement, they don't come to Willowbend when converting a garage or basement, they come before the Town. He estimates this would be a 6 month process.

Mr. Lehrer asked Mr. McElhinney if he was able to provide the Board the necessary documents, as he mentioned in his opening remarks, reports made for DEP.

Ms. Waygan asked what the total bedroom count was in April of 2023. She saw the condition and she still has not gotten an answer. She doesn't know if they are in violation of the Special Permit or not. She respects what previous Boards use as conditions. Right now she does not have evidence they were in violation. Between the Assessors records, building permits, and the DEPs records, they should be able to come up with a number. She is happy Town Counsel has signaled the Building Commissioner as the point person for this. We should also hire an independent consultant. She is hoping it would be covered under the purview of the Board Engineer. She gave plenty of opportunity since this started, and they only heard about this violation from a resident. Our staff are extremely busy now so we should consider hiring someone. We have years of catching up. There should be a physical inspection. If the town cannot get access to these units, we better have an alternative plan that includes review of records.

Mr. McElhinney stated they are not in any violation, this condition has been waived.

Ms. Faulkner asked if it was considered waived because nobody was aware?

Troy Miller, Chief Development Officer for Willowbend, wanted to address these concerns. His biggest question is if this Board's specifically worried about the bedrooms or ability to manage wastewater. The cap is in place and there is ample data showing sufficient capacity, and there were approvals granted back to 2009 and most recently 2019, what other reason would the Board need in order to understand bedroom count.





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Mr. Balzarini commented the officer would be checking for three bedrooms at a three bedroom home and any additional bedrooms that were added. If five houses were to add two more bedrooms, that's 20 more bedrooms producing wastewater.

Mr. Miller reiterated the flows prove as it stands with however many bedrooms are in place, real time data proving flows are at reasonable levels on a regular basis with ample capacity being well below the capping point.

Mr. Balzarini agreed but stated they are not abiding by the Special Permit.

Mr. Miller is under the impression meeting these requirements were directly related to wastewater abilities, if there were other reasons for the amount of bedrooms he would be happy to hear them. Wastewater is why past applications were approved by this Board, and in this application specifically, all efforts were taken to ensure we continue to have the capacity necessary to service wastewater with any additional units. If this is a question of wastewater then it should rely on the data, DEP rulings, and the Health Department.

Ms. Waygan referenced zoning bylaw Article 6, this Board needs to make a finding on the impacts of this development. She never in her wildest dreams thought that Willowbend was not in compliance with their Special Permit. The work in this town, plans and applications, are always complete and they are always a joy to work with. She isn't talking about being off by five units, this is 17% or more. It's all about the decisions that we make and the impacts of this town. This is our law, this Board cannot go forward and approve this without making this finding. She cannot make that finding without knowing how many bedrooms. Why does it matter? There are other burdens people living in these bedrooms have on the town. They could all be vacant, she does not know if they are always vacant or not. There are plenty of areas that bedrooms were empty earlier this year and are now all full. Look at our water at the Mashpee River and the invasive seaweed at South Cape. It's not about the wastewater treatment that is treating per gallon, but each occupied bedroom adds nitrogen in our eco system.

Mr. Miller repeated that the data shows peak capacity is well within limits, based on what has been approved. Ms. Waygan hears the wastewater component, and the data is tremendous. She stated there are 853, plus whatever above that, also treatment of 200 that aren't within the community that have been added. Mr. Miller noted they are still well below. He wants to see that capacity utilized to ensure there are no more septic systems on Cape.

Ms. Faulkner understands what he is saying. They aren't utilizing the capacity. However, they violated a Special Permit and claim to not know they did so. It could be cut and dry, but she needs to go through those findings.





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Mr. McElhinney stated there are different views on this issue in terms of what it means and what the history of the project and series of approvals mean. There are very substantial economic reliances on these permits, not only by them but the homeowners. He would suggest they continue both these Public Hearings for 30 days. During that period, they will gather all the correspondence with DEP and bring Kevin Klein, who has been the wastewater engineer on this project since 1990, and has been the liaison with DEP. He is well respected and will transparently share what currently remains the count. He does not think anyone is capable of coming up with exact numbers. Working with enforcement, the big picture view is this is not of great importance. The DEP in its wastewater permit, where the 853 is noted, that's where that figure came from.

Mr. Miller commented in terms of the statement made relating to being in violation, that doesn't feel right. They have never done anything that was not approved by this Board. Data has been collected and provided every step of the way, he doesn't feel like a violation is an accurate representation of their collective.

Ms. Waygan commented they should use this time to delegate to town staff what is to be done if we do not want to hire a consultant. She would like the Board's consulting engineer to do this. Between the Board of Health and Building Department, we have this information. If town staff does not have capacity, we will hire a consultant.

Mr. Hansen understands the wastewater and flows are within limits, and the bedrooms are excessive of current limits. We are focusing on wastewater and impacts on ponds and waterways, he would like the Board to consider secondary impacts. These include additional traffic flow, congestion, emergencies, etc. A three bedroom home converted to five, maybe there are additional cars as well.

Mr. Lehrer stated staff will have to prepare the records, with or without a consultant. He would like an opportunity to discuss this matter further and come back with a mobilization plan of staff after it has been discussed with proper parties. It will take staff from multiple departments, with an already limited capacity.

### **MOTION:**

**Ms. Waygan made a motion to direct Town Staff, Town Manager, and Town Planner to develop a plan to certify the number of bedrooms at the Willowbend project. Seconded by Mr. Balzarini. All in favor.**

### **Roll Call Vote:**

**Mr. Balzarini: Yes, Mr. Richardson: No, Ms. Waygan: Yes, Mr. Oakley: Yes, Ms. Faulkner: Yes (4-1)**



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Mr. Pesce commented that they are taking an incredibly important view of this and it's important to understand scope. You can look at records and get a decent representation and you can talk to every home owner, but you won't get all of them. You will still be at that point, now what do you do with that number? Once you get to that point, speak to Town Counsel on what the next step will be. Another Board member mentioned the secondary impacts. We will not be asking people to remove work done on their homes. After we understand the scope of exceedance, with DEPs approval, we can get a reasonable estimate, not perfect. Then we will be able to see how big the problem is.

Mr. Lehrer has analyzed this figure before and his estimated count is around 995 bedrooms.

### **MOTION:**

**Mr. Balzarini made a motion to continue the Public Hearing for 275 Quinaquisset Ave. Cranberry Point to August 2, 2023 at 7:10P.M. Seconded by Ms. Waygan. All in favor.**

**Wendy Williams-** She would like to thank Mary Waygan and acknowledge her experience and her depth of knowledge. She is a wonderful member of the Planning Board, and if not for her Saturday readings would've never found this violation. What the DEP has allowed is irrelevant, nobody knows how many bedrooms are there. The last time she was here she looked at their 14 units on 5 acres. Willowbend, an environmental hero, or nuisance? Now the proposal is for 12 units, but what will they give? Give us the five acres, they have other land elsewhere those 12 units can go. If they don't want to do that, someone suggested their commitment to clean up the entirety of Quaker Run. Might we ask Willowbend what they would offer of equal or greater value that would make the Board feel more comfortable? Why is so much going on at Willowbend? She did some research. She handed out copies of an article from the Boston Globe. This property was sold at auction and David Southworth became a partner, two years ago there was some conflict, now Joe Deitch is current head of this project, he took control during the pandemic. She presumes he wants to get as much money out of this property.

**Clayton Southworth** –David Southworth is his father. This is an odd situation. Things evolve and context matters, he agrees with the Board. It is important to find commonalities because firing back and forth at one another is not healthy. He also wants the cleanest water to drink, be healthy, and help the environment. He is thankful for how much Mashpee has been protected, we have been good stewards of the land. His dad loves this place more than anyone will know. This is his home too. While he says all that, working with people is something so valuable. When everyone fights, at the end you are left with a bruise. We want to work with the town to have better sewers and take care of the environment the best we can. Joe Deitch is a billionaire, but he is also kind of crunchy, he loves the environment and doing philanthropic missions with his money. It is something he would be open to. Working together



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is better for the health of this community. He hopes for the best for everyone. He loves this town.

**Dr. Stephen Ross-** He has been vacationing here for 20 years, but he and his wife just moved here on June 1<sup>st</sup>. He is a member at Willowbend and he purchased land in Willowbend. They enjoy the community very much and he hopes to become active in some of the boards. He wanted to point out, when talking about numbers and the number of bedrooms related to water flow. Everyone wants clean water, we just need to find the balance. If we picked a number, say 1,000 beds, we are now at 60% capacity, and we can go to 85% capacity, which is a 25% difference. 1,000 bedrooms increased by 25% is 1,250, which would still allow for an efficient system. He is looking forward to working with everyone and finding a nice practical and peaceful solution.

**Terry Ronhock-** She compares this scenario to having a credit limit on a credit card. It is important for us all to get along, it's also about the laws, and the law at the Special Permit was for this bedroom count. We are looking at sewer, sure, but the permit was for a certain number of bedrooms, and that doesn't just reflect on septic but other things, such as traffic and groundwater.

**Dan Marsters-** He asked about the people who own lots at Willowbend right now, where is their protection? Through something that was done by no fault of their own. Another issue is they don't own the lot they own the developing rights. Those expire, now he has to develop this lot by a certain time, where is their protection? What would the Board say to that? Protection to the existing property owners who have done nothing wrong, and people who have added bedrooms.

**Arden Russell-** She stated the real issue is the developer purposefully ignored terms of the Special Permit that was issued. Including the bedroom count is important for so many other reasons than just sewage. They have been caught violating, it's a violation of terms, instead of being contrite and seeking forgiveness or mitigations, instead showed up and asked for more. It's serious and she hopes it gets treated as such. What are their options for resolution? This should put an immediate halt or revocation, and certainly implement denials for requests immediately, the developer showed it cannot be trusted.

**Theresa Mcdonald-** She has lived in Mashpee for 17 years. Her property directly abuts Willowbend. They went through discussing development of condos behind her property. It seems that no matter how much we give Willowbend permission to amend, they just keep expanding. At what point do we say enough? Do we let them max our sewer and land? It is time we say enough!



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Ms. Waygan stated anyone in this room could look up this information, it is public record. She is confident they will come with a number that will lead the Planning Board to a decision. She would like to add the discussion of what their plan will be on the agenda for July 5<sup>th</sup> as discussion. It is a Public Hearing we are continuing but we need to discuss a work plan.

### **MOTION:**

**Mr. Balzarini made a motion to continue this Public Hearing to July 5, 2023 at 7:10P.M. for the purpose of discussing a work plan to determine the number of bedrooms. Seconded by Ms. Waygan. All in favor.**

### **7:20P.M. (Continued from 05/17/2023)**

**Applicant:** Marcello Mallegni, Forestdale Road, LLC  
**Location:** 532 Main Street (Map 25, 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.

### **MOTION:**

**Mr. Balzarini made a motion to continue the Public Hearing for 532 Main St. to 7:45P.M. Seconded by Mr. Richardson. All in favor.**

### **MOTION:**

**Mr. Balzarini made a motion to continue the Public Hearing for 532 Main St. to 8:30P.M. Seconded by Ms. Waygan. All in favor.**

### **MOTION**

**Mr. Balzarini made a motion to continue the Public Hearing for 532 Main St to 8:45P.M. Seconded by Ms. Waygan. All in favor.**

Ms. Faulkner read correspondence from Mr. Kirrane dated June 16, 2023. The draft traffic report will be completed within the next two to three weeks. He is asking for a continuance.

### **MOTION:**

**Ms. Waygan made a motion to continue this Public Hearing to August 2, 2023 at 7:30P.M. and grant further 120 day extension. Seconded by Mr. Oakley. All in favor.**

Mr. Lehrer commented that the certification of action was filed with the town.

### **NEW BUSINESS**

**Sign signatory page for the Barnstable County Registry of Deeds and Land Court Registry.**



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The signatory page was passed around for Board members signatures.

### **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.**

Mr. Smith stated this is a very different conversation he is having after the devastating blow to lose Ray Jack. The support from likely and unlikely sources has been immediate. It is a great burden that was left and none of us are civil engineers. Mr. Smith has stepped in to be the communication and the Town Manager has picked up day to day funding. What we have done is wrapped all considerations into one team effort surging ahead. At the Select Board they introduced a plan to proceed and address funds to keep this project rolling without the strong guidance we had. He would like to say more but there is more work he will be doing and the Town Manager's office will be doing. They plan to present the scope Monday night and it will not be easy, he speaks only as the Chair tonight. The Commission has not convened since his passing, this was done as emergency response efforts.

Ms. Faulkner commented that he can appear before the Select Board and take questions and the Planning Board can meet with him again in the future.

Mr. Smith said they have some well thought out ideas and it's the appropriate thing to do to go to the Select Board first. For those that are concerned, a contractor came in and gave a thorough insight into what to expect. When you see the stake that's when you call a contractor and get multiple estimates, then the contractor will place the stake. There will be time to get it done. There is a 90 day extension. Relax for now, when you see that stake, make the call. We know this is already a burden on households.

Mr. Lehrer stated his office gets numerous calls about the sewer. One was from a man who just moved here in the phase 1 zone and during road construction his stake showed up. He was concerned he missed his opportunity to move it. The road had been patched, and the stake was in the ground, but road work does not mean last opportunity to meet.

### **OLD BUSINESS**

#### **Discuss Planning Board priorities to bring to the Charter Review Committee**

Ms. Waygan brought forth the idea of having flexibility with respect to appointment of boards, committees, and commissions. In the case of long term vacancies of six months or more, the Select Board could offer the position to an elected official. She offered a compromise because it was not well received at first. There will need to be some type of language so they could be appointed if there were chronic vacancies.





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Ms. Faulkner thinks there should be a limit of two terms for elected officials over the period of a couple years. We shouldn't limit the Town Clerk to two terms. We want a smooth transition. She made it clear she answers to the people of Mashpee not the Select Board. There was a question about where the Town Manager should live, and he/she should live in Mashpee. What if someone lived 20-30 miles away and can't move because their kids are in school, we have to think about that. What if there aren't any homes for sale in the area, or in the price range? She does not see why it would require that position to absolutely live in Mashpee.

Ms. Waygan stated there were 11 residents at the meeting, two people supplied comment via email. Richard Klein suggested a change made to Article 3, term limit for elected officials for two consecutive terms. He also noted intergovernmental relations between not only the town and commonwealth, but we should add the Mashpee Wampanoag Tribe. There will be a preamble added to the charter that describes the relationship and it's unique history with the Tribe. There was another comment made about a public committee to assist with oversight of projects that are valued over a certain amount of money. J. Marie Stevenson stated Select Board title needed to be changed throughout. She also noted the preamble should contain a land acknowledgement that recognizes the aboriginal rights. She also suggested some committees be allowed a budget for programming. She would like the town to hire a grant writer. Lynne Barbee thinks the definition of voter is vague, it should say registered voter. She believes the Finance Committee should return to an elected board, saying Finance is just as important. She would also like to add IT and remote participation in the charter with the implementation of Zoom meetings. Deb Kaye testified that the Town Clerk should stay an elected position. A Tribal member stated a Tribal seat should be reserved on every board and committee. Lastly, Michaela Colombo supported the election of FinCom but did not support term limits, and she supports the preamble for the Tribe.

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

Mr. Pesce stated he has been to the site several times in the last few weeks. The final paving on the entire subdivision will be conducted tomorrow. He met with Mr. Morin and Lawrence Lynch, a couple items were altered, mainly grading to allow for successful drainage. Due to the concerns at the end with the Dorsey family, he recommended last week an additional basin be installed and piped to the existing so all water generated on the subdivision road area gets directed to the subdivision drainage system. Mr. Morin sent an email to the residents notifying of upcoming work. Their intent is twofold, put down a tack coat, so final coat and original binder have adhesion. Tack coating will occur on the entire Carriage Road, Blue Castle Drive and Degross Road all paved at once. Blue Castle will only have one lane shut down for tack coat, cure, and cool, then the other side will be done. They discussed some maintenance responsibilities per the rest of the agreement and drove down to the section of the road. Mr. Morin emailed he and Mr. Lehrer when the crushed stone drainage was installed in 2020, he also agreed to take care of leaf litter, but the Board may ask for





# Town of Mashpee

## Planning Board

16 Great Neck Road North  
Mashpee, Massachusetts 02649

more maintenance. One pot hole was identified and Lawrence Lynch will patch it. He didn't give specific time for cleaning.

Mr. Lehrer stated that the Board asked him to refer to the Building Commissioner for enforcement issues, Condition 10 and safety mitigations. Similarly, the photos of the children climbing a pile of dirt were sent to the Board of Health. The health agent doesn't feel there is a safety code issue, but during construction maybe we see if we can compel a construction fence and no trespassing.

Ms. Waygan asked Mr. Pesce what other sites have for large piles of dirt.

Mr. Pesce stated it's not typical for it to be there for a lengthy period of time. He won't comment on safety, but it's unsightly and would be removed. The pile of dirt is not as dangerous as some of the equipment.

Ms. Waygan would like to suggest writing a letter. She would like to talk to the Building Commissioner and Town Counsel to write a letter to Mr. Morin to request a security fence or remove the pile. We need to take some action.

### **MOTION:**

**Ms. Waygan made a motion to talk to the Building Commissioner about improving safety on the site, not limited to the large pile of dirt with children playing in it. If he doesn't have jurisdiction, the Board recommend staff draft a letter to Town Counsel to have pile removed. Seconded by Mr. Balzarini. All in favor.**

### **Planning for October 2023 Town Meeting**

#### **Accessory Apartment zoning bylaw amendment**

Mr. Lehrer noted additional changes to be made. They amended subsection A, both units cannot be rented at the same time. Under Subsection C, changes to the minimum area requiring at least 450s.f. and not to exceed 900s.f. Under Subsection I, language is changed to add the word shall and remove the word may.

Mr. Oakley asked what if somebody wanted to rent the principal and the accessory to a family member.

Mr. Lehrer noted the current regulations don't allow a property owner to rent both, they have to reside in one.



# *Town of Mashpee*

## *Planning Board*

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Mashpee, Massachusetts 02649*

Ms. Waygan would like to work on that for next Town Meeting. Who is defined under family member, and how are we defining family. She would love to consider a family related provision.

### **MOTION:**

**Ms. Waygan made a motion to submit these three subsections that amend the accessory dwelling bylaw to the Select Board for inclusion on the warrant for October Town Meeting. Seconded by Mr. Richardson. All in favor.**

### **Raze and Replace Amendment**

Mr. Lehrer prepared a presentation that goes over his knowledge of the problem and some concerns that create flexibility and restrictions. When you try to describe a three dimensional environment using words it can be confusing. This has been reviewed by Town Counsel. The purpose is to define what is detrimental when evaluating impacts of non-conformities when razing or replacing single family dwellings. The proposal explains acceptable limits to growth but does not provide ability to extend to maximum. There are no limits in the bylaw that state what growth is detrimental, it is at the discretion of ZBA. The setbacks are not prescribed. ZBA needs to have a structure to operate under when giving neighbors clarity on growth, but further for applicants and people representing applicants.

One change, you cannot increase intensity of a non-conformity. Preexisting non-conforming home with raze and replace, you would be allowed today and after this bylaw, to increase building footprint to maximum allowed in underlying zoning district, max side setback and building height. If you are 10 ft. from property but required to be 15ft., you can maintain 10, but it does not allow to go to 9 or 7. It establishes limits for modest growth. Incentivizing upgrades for FEMA or septic, but it's not limitless. In a floodplain, there is 100% lot coverage by FEMA and by structures. Nothing in current bylaw considers height. Also, the use of impervious surfaces would be eliminated in Poppy. This provides pathways for redeveloping your home by right. The purpose is to address insensitive development, respect certain fabrics of neighborhoods, mitigate detriments, and incentivize property owners to be more compliant with septic.

Ms. Faulkner wants to take this home to review and come back next time for discussion. Mr. Lehrer would be happy to provide a memo in simpler terms with what each section is saying.

Mr. Lehrer would like to bring this to ZBA and have a joint meeting.

Ms. Waygan has two concerns. One is using land we don't normally use to calculate lot coverage. Lot coverage in this town is 20% coverage, only using upland, you can't use land subject to coastal flow or wetland. This raze and replace is providing significant relief without



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Mashpee, Massachusetts 02649

mitigation. She would like to look at language if upland calculation is less than current lot coverage, some type of calculation. Any division by 0, doesn't make sense. Our bylaw is being interpreted the wrong way. A number over 0 is not real, it's undefined. That footprint of that building cannot be expanded. If you start to look at how much is actually on the site, if that's smaller than your footprint, then you can't change your footprint. That is going down a path which is going to be deliberated in court. If you get into this special case where existing building is no more than the upland that you have, but we need to get rid of the math. She thinks that still allowing ZBA, this new language is going in a pathway that she doesn't think is fruitful. Because of the petition article, there is support to tweak this bylaw that addresses concerns of petitioners. If we are going to throw it back to ZBA to determine detriment for improving, it has to be a yes or no, she likes how it was written before. Mr. Lehrer stated Counsel wrote the edits. Ms. Waygan said Counsel is involved with ZBA and those law suits. Neighbors are coming to these meetings saying don't approve this. They feel like they are being ignored. Our efforts should be to resolve that. In that spirit, we are really close. We need to get people on board with it. Workshop with petitioners and be the bridge between petitioners and ZBA.

Mr. Lehrer spoke to the Town Manager about 3D work ups, he is allowing him to do that when workshopping.

Mr. Hansen supports what Ms. Waygan is saying. The fill, if you had all these calculations for raze and replace based on existing conditions, less additional fill would be desirable. With the height condition, he wants to go over maximum height. So he could fill his land and say he's only putting 5ft. Why can't you do this with the wetlands? He suggests getting the divide by 0 out of the bylaw totally, and go by the suggestions to use calculations.

Mr. Lehrer answered if you are in the floodplain minor or total, you can raze and replace but it has to be within the footprint. We are asking property owners to make a fair amount of changes, boundaries, buffers, and IA, we need to incentivize these property owners to make improvements. We will continue this at another time but he is not sure when. He will come back with additional options.

### **MOTION:**

**Ms. Waygan made a motion to continue to work on the amendments for the raze and replace bylaw and to go over at a future date TBD. Seconded Mr. Balzarini. All in favor.**

### **Tree Protection Bylaw**

Ms. Faulkner stated this is the final draft. She would like to note three things. This only applies to those engaged in a building activity. There is no way we could enforce it otherwise. Page



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Mashpee, Massachusetts 02649

11, it references the Town Planner or designee to enforce all, and may designate monitoring enforcement agents. Applications will be filed through his office.

Ms. Waygan asked if Mr. Lehrer was an enforcement agent, this would allow him to be one, and his job description would need to be updated.

Ms. Faulkner is looking for 51% majority vote at Town Meeting.

Mr. Lehrer referenced the waiver request on page 5. Initially, when this was drafted it was to empower him to waive requirements during a period of emergency. He reckons the waiver should say in a declaration of emergency, provisions of bylaw are waived by that action. Whomever the appropriate authority is, most likely the County or State can acknowledge an emergency.

### **MOTION:**

**Ms. Waygan made a motion to submit this bylaw to the Select Board for placement on the warrant for October 2023 Town Meeting, after correct language for waivers is added. Seconded by Mr. Balzarini. All in favor.**

### **BOARD ENGINEER REPORT**

#### **Project Review and Inspections**

Mr. Pesce commented that Ockway Highlands Blue Castle Drive will be paved tomorrow. He has been involved with wrapping up Country Club Estates, they are still continuing with infrastructure work, but water and drainage has been done. They are getting ready to wrap up Sherwin Williams, the grass never grew in and established, so they replanted some areas. He had someone looking at it last week and it was no different than a couple weeks ago, it may be another season before it's completely done. Landscaping and a stone wall was added at Willow Circle, there was concerns about turning radius with a truck as the edge of pavement is close to the edge of the wall. The road was shifted and the landscape island shrunk. He has been assisting the Zoning Board with some items that Mr. Lehrer is aware about.

Mr. Balzarini has a good idea of that intersection. Mr. Lehrer stated the Board approved a modified design and it was verbally committed. Challenges were it was never modified under the definitive plan. He is entitled, as approved, but he will need to come back to release those lots. He has the rights to install infrastructure on that road, which he is preparing to come back and say he has done this and release lots. He only released a third of the lots. It was contemplated capturing any security funds necessary to do the intersection.

Mr. Pesce was concerned about the safety of the intersection. He acknowledged the safety considerations and agreed to have a better idea, edge of vegetation as you approach from



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one side and grading from the other side. Right now if you come down Old Barnstable on Rt. 151 and turn left you can't see in front of you on Quashnet. When you are leaving the subdivision it affects both directions. He agreed to additional surveying. We haven't heard back about that.

Ms. Waygan thinks the naturally vegetative buffer strips should be updated in the zoning bylaw, naturally vegetative, especially between industrial and residential lots. Existing conditions establish a vegetative buffer, clear cut so they can't impose, then we should be able to use planting buffers.

### **CHARIMANS REPORT**

#### **Water Quality Issues**

Ms. Faulkner suggested the use of clover as it takes nitrogen from the air and brings it to the soil and it fertilizers. It's a weed but it out competes all other invasive species, with a mix of turf it does not ruin, and if you don't like the flowering of the clover due to bees or whatever, just keep it short. Plant in early summer and wherever the seed is put top soil down so the ground keeps moist until germination.

### **TOWN PLANNER REPORT**

#### **Hazard Mitigation Planning Committee Public Workshop #2**

Mr. Lehrer is looking at July 14<sup>th</sup> for the next workshop and he would like more participation. Ms. Waygan commented it was really cool, they got to take a live poll on Zoom.

#### **Harbor Management Planning Committee New Seabury Workshop**

The next meeting is July 13<sup>th</sup>.

#### **Housing Production Plan update**

Mr. Lehrer will be meeting with the consultants and the Affordable Housing Committee on July 11, 2023 at 6:00p.m.

### **COMMITTEE REPORTS**

#### **Cape Cod Commission-**

Housing strategy was canceled

#### **Community Preservation Committee-**

No meeting

#### **Design Review-**

No meeting

#### **Plan Review-**

Expansion of Mashpee Neck Marina, submitted a number of conditions, storing boats above grade, lighting, screening to adjacent neighborhood, all accepted. Voted to recommend conditions.

Residential home to provide overflow parking, it could be used by owner or employee. Related



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industrial use on residential property. Still going through ConCom due to being in a buffer with mitigation plantings. Fire reviewed emergency access gate.

**Environmental Oversight Committee-** The Town Manager said liaison appointments are done June 26<sup>th</sup>, approach that Select Board member and have them act as Chair to convene next meeting, EOC has not met in over a year.

**Historic District Commission-** No meeting.

### **ADJOURNMENT**

#### **MOTION:**

**Ms. Waygan made a motion to adjourn the meeting of the Planning Board at 10:25P.M. Seconded by Mr. Balzarini. 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
- April 2023 Discharge Monitoring Report for South Cape Village – N= 6.0
- March 2023 Discharge Monitoring Report for South Cape Village- N=8.7



APPROVAL NOT REQUIRED

Planning Board  
Form N

Notice of Filing  
of Application with the Mashpee Planning Board

To the Mashpee Town Clerk:

This is to notify you that on June 27, 2023 an application for


☒ endorsement of a plan believed not to require approval  
☐ approval of preliminary plan  
☐ approval of definitive plan

was submitted to the Mashpee Planning Board at its public meeting by

John and Carla Mullen, Trustees, 188 Pimlico Pond Road, Mashpee, MA  
Applicant name Applicant address

The land to which the application relates appears on the current Mashpee Assessors Maps as  
Map 2 Parcel 191 and Map 2 Parcel 192

and is generally described as located

188 Pimlico Pond Road, Mashpee, MA consisting of 112,236 +/- sq. ft. area( upland) and 194 Pimlico Pond Road, Mashpee, MA consisting of 86,452 +/- sq. ft. area (upland). Located on the south side of Pimlico Pond Road and north of Wakeby Pond. Zone R-5. Purpose of ANR is to divide lots 1 and 2 to create Lots A and B. Then combine the remainder of Lot 1 with Lot B and the remainder of Lot 2 with Lot A to create Lots 1A and 2A. 

This notice must be submitted to the Town Clerk by delivery or by registered or certified mail, postage prepaid, along with a copy of the application and submitted plans.

Received by Planning Board on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
for Mashpee Planning Board



# Town of Mashpee

## Planning Board

16 Great Neck Road North  
Mashpee, Massachusetts 02649

### FORM A

#### APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

Date: June 27, 2023

To the Planning Board: The undersigned, believing that the accompanying plan of his or her property in the Town of Mashpee does not constitute a subdivision within the meaning of the Subdivision Control law, herewith submits said plan for a determination and endorsement that Planning board approval under the Subdivision Control Law is not required.

Name of Applicant John J. and Carla E. Mullen, Trustees Phone 508-477-7272

Address 188 Pimlico Pond Road, Mashpee, MA 02649

Owner, if different SAME AS ABOVE Phone 508-477-7272

Address \_\_\_\_\_

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessor's certification.

Engineer or Surveyor Cape & Islands Engineering Inc. Phone 508-477-7272

Address 800 Falmouth Road, Suite 301 C, Mashpee, MA 02649

Deed of property recorded in Barnstable County Registry Book 34322 Page 100  
Lot 2 34058 77

Land Court Certificate of Title No. \_\_\_\_\_

Location and description of property 188 Pimlico Pond Road, Mashpee, MA consisting of 112,236 +/- sq. ft. area( upland) and 194 Pimlico Pond Road, Mashpee, MA consisting of 86,452 +/- sq. ft. area (upland). Located on the south side of Pimlico Pond Road and north of Wakeby Pond. Zone R-5. The purpose of ANR is to divide lots 1 and 2 to create Lots A and B. Then combine the remainder of Lot 1 with Lot B and the remainder of Lot 2 with Lot A to create Lots 1A and 2A.

Mashpee Assess map(s) and Block(s) Map 2 Parcel 191 and Map 2 Parcel 192

Signature of Owner or Authorized Representative John J. Mullen  
Cape & Islands Engineering, Inc.

*Attach written authorization signed by owner.*

2938

**CAPE & ISLANDS**  
ENGINEERING  
800 Falmouth Road Suite 301C  
Mashpee, MA 02649  
508-477-7272  
info@capeeng.com

Bank of America, NA

5-13/110

5/12/2023

PAY TO THE  
ORDER OF

Town of Mashpee

\$ \*\*100.00

One Hundred and 00/100

DOLLARS

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



*Charles*  
AUTHORIZED SIGNATURE

MP

MEMO

ANR, 188 & 194 Pimlico Pond Road

[REDACTED]

**Town of Mashpee  
Planning Board**

I hereby attest that John J. and Carla E. Mullen, Trustees

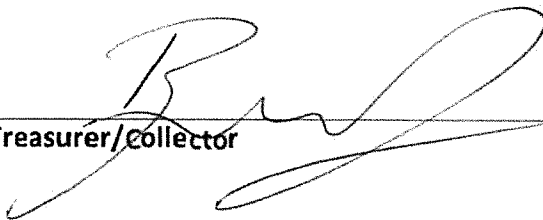
**OWNER OF RECORD**

Assess Map 2 Parcel 191 and Map 2 Parcel 192, 188 and 194 Pimlico Pond Road,  
Mashpee, MA 02649

**ADDRESS**

Is (are) the owner(s) of the above-referenced property.

I hereby further attest that the owner of the above-cited property is not, to the best of my knowledge, in arrears of payment of any local taxes as may be applicable under Section 1 of Chapter 112 of the Mashpee Code.

  
\_\_\_\_\_  
Treasurer/Collector

5/15/23  
\_\_\_\_\_  
Date

May 9, 2023

Mr. Evan Lehrer, Town Planner  
Town of Mashpee Planning  
16 Great Neck Road North  
Mashpee, MA 02649

**RE: Application for Approval Not Required 188 and 194 Pimlico Pond Road,  
Mashpee, MA**

Dear Mr. Lehrer:

This letter is in regard to the above referenced application.

Please accept this letter as my written authorization to allow Matthew C. Costa, P.L.S., R.S., President, Cape and Islands Engineering, Inc. and/or his Associates to represent this Approval Not Required Application on our behalf.

If you have any questions, please feel free to contact me at 508-294-9393.

Sincerely,



John and Carla Mullen, Trustees  
188 Pimlico Pond Road  
Mashpee, MA 02649

Cc: Cape & Islands Engineering, Inc.



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After Recording, Return To:  
MORTGAGE CONNECT, LP  
600 CLUBHOUSE DRIVE  
MOON TOWNSHIP, PA 15108  
File No. 1621174

**PROPERTY APPRAISAL (TAX/APN) PARCEL IDENTIFICATION NUMBER**  
**2-192-0**

---

**QUITCLAIM DEED**

Exempt: Consideration is less than \$100.00

Carla E. Mullen, Trustee of Carla E. Mullen 2012 Trust under declaration of trust dated March 28, 2012, hereinafter grantor, whose tax-mailing address is 188 PIMLICO POND RD, MASHPEE, MA 02649, for \$0.00 (Zero dollars) in consideration paid, grants and quitclaims to Carla E. Mullen and John J. Mullen, Trustees of Carla E. Mullen 2012 Trust under declaration of trust dated March 28, 2012, hereinafter grantee, whose tax mailing address is 188 PIMLICO POND RD, MASHPEE, MA 02649, with Quitclaim Covenants:

**SEE "EXHIBIT A" ATTACHED HERETO FOR LEGAL DESCRIPTION**

Prior instrument reference: 17311, Book 26203, Page 175. recorded on 3/30/2012

The real property described above is conveyed subject to and with the benefit of: All easements, covenants, conditions and restrictions of record; in so far as in force applicable.

The real property described above is conveyed subject to the following: All easements, covenants, conditions and restrictions of record; All legal highways; Zoning, building and other laws, ordinances and regulations; Real estate taxes and assessments not yet due and payable; Rights of tenants in possession.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title interest, lien equity and claim whatsoever of the said grantor, either in law or equity, to the only proper use, benefit and behalf of the grantee forever.

C O P Y

Executed by the undersigned under seal on April 23, 2021:

A N

A N

O F F I C I A L

O F F I C I A L

Carla E. Mullen, Trustee

C O P Y

Carla E. Mullen, Trustee of Carla E. Mullen 2012 Trust under declaration of trust dated March 28, 2012

STATE OF Massachusetts  
COUNTY OF Barnstable

The foregoing instrument was acknowledged before me on April 23, 2021 by Carla E. Mullen, Trustee of Carla E. Mullen 2012 Trust under declaration of trust dated March 28, 2012 who is personally known to me or has produced MA D.L. as identification, and furthermore, the aforementioned person has acknowledged that his/her signature was his/her free and voluntary act for the purposes set forth in this instrument.



ALEX MICHAEL COUTO  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires  
February 17, 2028

A M C  
Notary Public

This instrument prepared by:

Nowell Bloomenthal Esq., (Massachusetts Bar Number: 046760), 935 Main Street # 3, Waltham, MA 02451-7437 and Jay A. Rosenberg, Esq., Rosenberg LPA, Attorneys At Law, 9078 Union Centre Blvd., Suite 350, West Chester, Ohio 45069, (513) 247-9605 Fax: (866) 611-0170.

NOT  
AN  
OFFICIAL  
COPY

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AN  
OFFICIAL  
COPY

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COPY

**EXHIBIT A**

NOT  
AN  
OFFICIAL  
COPY

That certain parcel of land with the building thereon situated in Mashpee, Massachusetts in the County of Barnstable and Commonwealth of Massachusetts, situated on Pimlico Road, shown as Lot 2 on a plan of land dated June 14, 1999, entitled "Subdivision Plan of Land Located in Mashpee, Mass. Prepared for Robert T. Cardillo" prepared by Cape and Islands Engineering, and recorded at the Barnstable County Registry of Deeds, at Plan Book 553, Page 45. Said Lot 2 contains 113,500 square feet according to said plan of land.

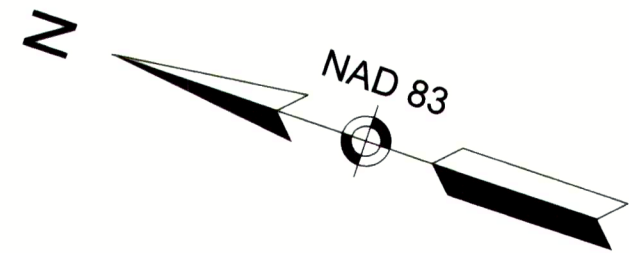
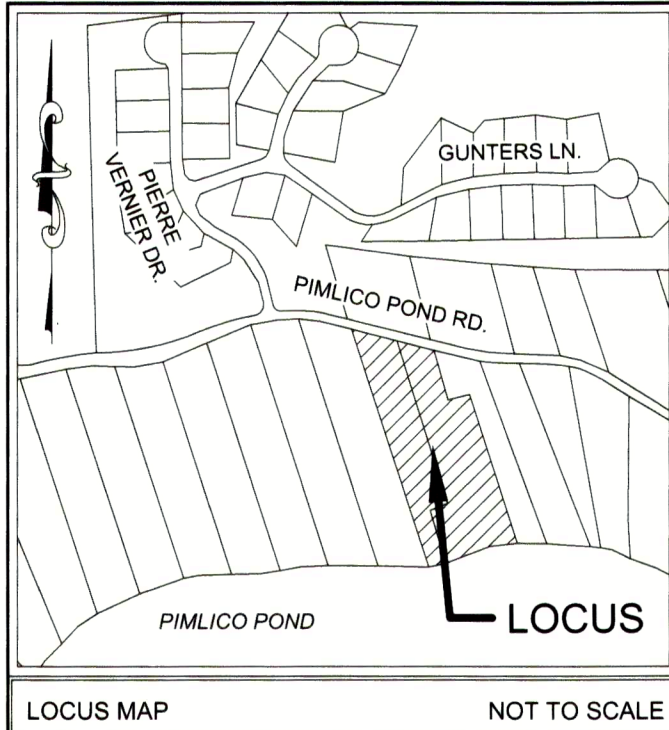
This conveyance is subject to all restrictions of record insofar as the same are in force and effect, and together with the benefit of that certain Variance dated February 28, 2012, entitled "Mashpee Zoning Board of Appeals Decision for a Variance, V-2012-5", recorded in the Barnstable County Registry of Deeds in Book 26189, Page 89 and made effective as of the date of said recording.

Tax ID: 2-192-0

PROPERTY ADDRESS 188 PIMLICO POND RD, MASHPEE, MA 02649

(9)





PIMLICO POND ROAD  
(33' WIDE - PUBLIC)  
EDGE OF PAVEMENT  
S 76° 48' 58" E 130.00'

APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED

DATE APPROVED DATE SIGNED

MASHPEE PLANNING BOARD

THE PLANNING BOARD'S ENDORSEMENT UNDER THE SUBDIVISION CONTROL LAW IS NOT A DETERMINATION THAT THE LOTS COMPLY WITH ZONING REGULATIONS AND SHOULD NOT BE CONSTRUED AS AN APPROVAL THAT THE LOTS DEPICTED ON THE PLAN ARE ENTITLED TO A BUILDING PERMIT.

LEGEND

- CB CONCRETE BOUND
- SB STONE BOUND
- RC ROD CAP
- OIP IRON PIPE FOUND
- TREE LINE
- POST & RAIL FENCE

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS FOR FILING PLANS IN THE MASSACHUSETTS REGISTRIES OF DEEDS.

MATTHEW C. COSTA, P.L.S.

6/27/23  
DATE

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

MATTHEW C. COSTA, P.L.S.

6/27/23  
DATE

PLAN PURPOSE

THE PURPOSE OF THIS PLAN IS TO DIVIDE LOTS 1 & 2 AS SHOWN IN PLAN BOOK 553 PAGE 45 TO CREATE LOT A AND B AND THEN COMBINE THE REMAINDER OF LOT 1 WITH LOT B AND THE REMAINDER OF LOT 2 WITH LOT A TO CREATE LOTS 1A & 2A

ZONING:

DISTRICT: RESIDENCE 5 (R-5)

MINIMUM LOT AREA: 80,000 S.F.  
MINIMUM FRONTAGE: 150'  
MINIMUM FRONT SETBACK: 40'  
MINIMUM SIDE SETBACK: 15'  
MINIMUM REAR SETBACK: 15'

GENERAL NOTES

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1988 DATUM. COORDINATE SYSTEM USED IS THE MA-MAINLAND COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

ZONING DISTRICT: R-5

LOT 1 AREA = 86,452± S.F.  
LOT 2 AREA = 112,236± S.F.

DEED REFERENCE: LOT 1 BOOK 34322 PAGE 100  
LOT 2 BOOK 34058 PAGE 77

PLAN REFERENCE: BOOK 553 PAGE 45

LOT 1 OWNER: 194 PIMLICO POND ROAD, LLC  
JOHN J. & CARLA E. MULLEN, TRUSTEES  
188 PIMLICO POND ROAD  
MASHPEE, MA 02649

LOT 2 OWNER: CARLA E. MULLEN 2012 TRUST  
CARLA E. MULLEN & JOHN J. MULLEN, TRUSTEES  
188 PIMLICO POND ROAD  
MASHPEE, MA 02649


0 15' 30' 60'  
SCALE: 1" = 30'

Wakeby Pond  
(A Great Pond)



NOTICE  
THIS PLAN MAY NOT BE ADDED TO, DELETED FROM, OR ALTERED IN ANY WAY BY ANYONE OTHER THAN CAPE & ISLANDS ENGINEERING, INC.  
UNLESS AND UNTIL SUCH TIME AS AN ORIGINAL (RED) STAMP APPEARS ON THIS PLAN NO PERSON OR PERSONS, MUNICIPAL OR PUBLIC OFFICIAL MAY RELY UPON THE INFORMATION CONTAINED HEREIN AND THIS PLAN REMAINS THE PROPERTY OF CAPE & ISLANDS ENGINEERING, INC.

COPYRIGHT (C) BY CAPE & ISLANDS ENGINEERING, INC. ALL RIGHTS RESERVED

DATE	DESCRIPTION	BY	CHK
PREPARED FOR:			
JOHN J. & CARLA E. MULLEN, TRUSTEES 188 PIMLICO POND ROAD MASHPEE, MA 02649			
PROJECT:			
188 & 194 PIMLICO POND ROAD MASHPEE, MASSACHUSETTS			
SHEET NO.: 1 OF 1		DATE: APRIL 5, 2023	
DRAWN BY: JJF		CHECKED BY: MCC	
PREPARED BY:			
 <b>CAPE &amp; ISLANDS</b> ENGINEERING			
SUMMERFIELD PARK 800 FALMOUTH ROAD SUITE 301C MASHPEE, MA 02649		508 477 7272 PHONE 508 477 9072 FAX <a href="http://www.CapeEng.com">www.CapeEng.com</a>	
DRAWING TITLE:			
PLAN OF LAND			
ASSESSORS INFORMATION: MAP 2 PARCEL 191 & MAP 2 PARCEL 192			

PIMLICO POND - 194, MULLEN, AND



NEW BUSINESS



# Town of Mashpee

# Planning Board

16 Great Neck Road North  
Mashpee, MA 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, August 16, 2023 at 7:10 PM at the Mashpee Town Hall, 16 Great Neck Road North, to consider a special permit application from Cellco Partnership d/b/a Verizon Wireless for approval to construct a 130' tall monopole-type personal wireless service facility (cell tower) at 524 Great Neck Road North, Mashpee, MA 02649 (Assessor's Map 67 Parcel 4). The subject property is located in the C-1 Commercial Zoning District and is within the Mashpee Wireless Facility Overlay District. This application triggers a mandatory referral to the Cape Cod Commission as a Development of Regional Impact. No public comment will be accepted by the Board nor will the Board deliberate on this matter at the opening of this public hearing. The matter will be re-noticed upon referral back to the Planning Board subsequent to any approvals issued on this application by the Cape Cod Commission.

Submitted by:

Karen D. Faulkner, Chair  
Mashpee Planning Board

Publication dates:    Friday, July 14, 2023  
                                 Friday, July 21, 2023



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## Pesce Engineering & Associates, Inc.

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

# Invoice

**Invoice #:** 2023-2105  
**Invoice Date:** 6/27/2023  
**Due Date:** 7/27/2023

### Bill To:

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

### Project & Location:

Ockway Highlands  
- Construction Inspection Svcs.

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
<b>ENGINEERING PROFESSIONAL SERVICES: 16 November 2022 - 22 June 2023</b>			
Review of E-mails to/from Mr. Morin & Evan Lehrer RE: Tripartite Agreement and the final work to be performed - 18 Jan - 1 Feb & 1 March 2023; attendance and follow-up discussions at Mashpee Pl. Bd. hearings - 1 Feb & 1 March 2023; review of Tripartite Agreement, and Notice of Default letter - 2 March; Calls with Evan Lehrer & Jacques Morin to discuss drainage issues at 86 Blue Castle (near Dorcy residence), and paving options & construction deadlines - 10 & 13 March	3.50	160.00	560.00
Travel & Site Visit/Meeting with Jacques Morin to review existing conditions and construction progress, including review of recent drainage photos, and travel & attendance at Mashpee Planning Bd. hearing - 15 March 2023	4.50	160.00	720.00
Review of Condition #10 of Tripartite Agreement, and prep. of e-mail to Mr. Morin regarding maintenance of the unpaved section of Blue Castle Dr. - 14 April	0.67	160.00	107.20
Travel & Site visit to review existing conditions, view construction progress & erosion controls - 3 May & Travel & Attendance at Pl. Bd. Hearing - 3 May	4.50	160.00	720.00
Phone call with Jacques Morin regarding proposed seeding of road sides and 2nd Detention Basin near Degress Rd. - 8 May	0.50	160.00	80.00
Project Engr. to travel & conduct site inspection of hydroseeding & drainage, Call with Project Manager - 17 May	2.50	145.00	362.50
Call to review inspection report with Project Engr., prep. e-mail to Evan Lehrer with pictures of site inspection & Attendance (Zoom) at Pl. Bd. hearing - 17 May	2.50	160.00	400.00
Follow-up e-mails with Mr. Morin to coordinate the schedule for paving operations - 18 May - 7 June	1.50	160.00	240.00
Project Engineer to meet on site with Lawrence Lynch Corp. Rep. & Mr. Moring regarding paving preparations, prepare e-mail report, and call with Proj. manager to review - 8 June	8.50	145.00	1,232.50
Review of site inspection report with Proj. Engineer, and follow-up call with Evan Lehrer on the status of the paving preparations - 8 June		160.00	160.00

Please make checks payable to "Pesce Engineering"

**Thank You for Your Business!**

**Total**

**Payments/Credits**

**Balance Due**



## Pesce Engineering & Associates, Inc.

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

# Invoice

Invoice #: 2023-2105

Invoice Date: 6/27/2023

Due Date: 7/27/2023

### Bill To:

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

### Project & Location:

Ockway Highlands  
- Construction Inspection Svcs.

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
Call with Jacques Morin regarding paving & drainage concerns near 86 Blue castle Dr., and Travel & Site Inspection for final paving preparations with Mr. Morin and Mr. Croft of Lawrence Lynch - 20 June	3.00	160.00	480.00
Travel & follow-up inspection of new curb inlet drain - 21 June; and travel & attendance at Mashpee Pl. Bd. hearing - 21 June	4.50	160.00	720.00
Project Engineer to conduct inspections during paving operations - 22 June	5.50	145.00	797.50
REIMBURSABLES			
Mileage expense - 42 Miles Roundtrip for Site Visits/PB Meetings - 5 trips = 210 miles	210.00	0.57	119.70

Please make checks payable to "Pesce Engineering"

Thank You for Your Business!

Total \$6,699.40

Payments/Credits \$0.00

Balance Due \$6,699.40

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# **Pesce Engineering & Associates, Inc.**

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

# **Invoice**

**Invoice #:** 2023-2108

**Invoice Date:** 6/27/2023

**Due Date:** 7/27/2023

## **Bill To:**

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

## Project & Location:

10A & 10B Teal Circle  
- Construction Inspection Services

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
ENGINEERING PROFESSIONAL SERVICES: 18 Nov 2022 - 23 June 2023			
Call from Scott Miller to coordinate site inspection of widened driveway at Teal Circle, and Travel & Site visit for inspection/meeting with Scott Miller & Fire Chief Phalen to measure & approve new driveway dimensions - 4 May 2023	2.75	160.00	440.00
REIMBURSABLES			
Mileage Expense - 38 Mi. roundtrip to site = 38 miles	38.00	0.57	21.66

*Please make checks payable to "Pesce Engineering"*

**Thank You for Your Business!**

**Total** \$461.66

**Payments/Credits** \$0.00

**Balance Due** \$461.66

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**Pesce Engineering & Associates, Inc.**

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

**Invoice**

**Invoice #:** 2023-2106

**Invoice Date:** 6/27/2023

**Due Date:** 7/27/2023

**Bill To:**

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

Project & Location:

Country Club Estates  
- Construction Inspection Services

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
ENGINEERING PROFESSIONAL SERVICES: 18 January - 23 June 2023			
Travel & Site visit to review existing conditions, view construction progress & erosion controls - 2 Trips: 18 Jan & 11 April 2023	4	160.00	640.00
REIMBURSABLES			
Mileage expense - 44 Miles Roundtrip for Site Visits - 2 site visits, with 1 trip shared with 3 sites = (1 X 44mi.) + (1 X 44mi./3 sites) = 59	59	0.57	33.63

Please make checks payable to "Pesce Engineering"

**Thank You for Your Business!**

<b>Total</b>	<b>\$673.63</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$673.63</b>

**Pesce Engineering & Associates, Inc.**

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

**Invoice**

**Invoice #:** 2023-2104

**Invoice Date:** 6/27/2023

**Due Date:** 7/27/2023

**Bill To:**

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

**Project & Location:**

17 Silver Leaf Lane  
- Construction Inspection Services

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
<b>ENGINEERING PROFESSIONAL SERVICES: 21 February - 17 May 2023</b>			
-----			
Calls with Applicant, John Rodriguez & Duke Perry, regarding paving of road & tentative site meeting date - 10 Apr 2023, and follow-up call with Town Planner RE Status - 11 April	1.25	160.00	200.00
Travel, Site Visit to review existing conditions & newly paved areas; Meeting with John Rodriguez & Duke Perry to take measurements of pavement and inspect new drainage basin, and list remaining work items - 19 April 2023;	2.75	160.00	440.00
Call with John Rodriguez to review remaining work item list, and discuss work underway by Duke Perry to enhance drainage swale area & asphalt apron - 26 April; Follow-up call & e-mail with Greg MacDougall to receive & review site plans and drainage plans, and review new widening of drainage swale - 26-27 April	2.00	160.00	320.00
Travel & Site Visit to review rip-rap & swale widening, and patching of road asphalt test cuts, review of Itemized price list of remaining incomplete work (by DP Asphalt, Inc.) for final surety - 3 May 2023	2.25	160.00	360.00
Travel & Attendance at Planning Board Meeting for approval of final surety amount - 17 May 2023	1.50	160.00	240.00
<b>REIMBURSABLES</b>			
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Mileage expense - 3 trips - 44 Miles Roundtrip to site - 19 April, 3 & 17 May	132.00	0.57	75.24

*Please make checks payable to "Pesce Engineering"*

**Thank You for Your Business!**

<b>Total</b>	<b>\$1,635.24</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$1,635.24</b>

**Pesce Engineering & Associates, Inc.**

43 Porter Lane  
West Dennis, MA 02670

Phone: CELL: 508-333-7630 Ed@PesceEng.com

**Invoice**

**Invoice #:** 2023-2103

**Invoice Date:** 6/27/2023

**Due Date:** 7/27/2023

**Bill To:**

Mashpee Planning Board  
ATTN: Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road N  
Mashpee, MA 02649

**Project & Location:**

New Seabury Cottages - Phase III  
- Engineering Review & Elevation  
Survey Services

Description	Hrs./Qty.	Rate (\$)	Amount (\$)
<b>ENGINEERING PROFESSIONAL SERVICES: 21 Dec 2022 - 24 March 2023</b>			
Initial Call & e-mails from Town Planer regarding project site and drainage issues - 21 Dec 2022, and 4, 10 & 12 Jan 2023	2.00	160.00	320.00
Review of approved site plans, historical project e-mails/reports, and Cottages Phase III Grade Eval. report (by Dudka Engineers) - 12-14 Jan 2023	2.50	160.00	400.00
Project Engineer for Travel & Site Inspection of roads and interior yard areas, and prepare photos & field report - 18 Jan 2023	3.75	145.00	543.75
Review of e-mail correspondence and letter from Mr. Milbury, Bayswater Cottages at new Seabury, LLC, and responses - 25 Jan - 11 March 2023.	1.75	160.00	280.00
Review of approved project plans and determination of locations for limited elevation survey, review with project Engineer - 12 March	1.25	160.00	200.00
2-Man Survey Crew to travel and conduct limited elevation survey - 20 March	4.00	175.00	700.00
Project Engineer to download survey points & prepare As-Built Spot Grade Elevation Plan, Review with Project Manager - 24 March	3.50	145.00	507.50
Review of final As-Built Spot Grade Elevation Plan, stamp & sign, e-mail Plan & report to Town Planner & others - 24 March	2.00	160.00	320.00
<b>REIMBURSABLES</b>			
Mileage expense - 44 Miles Roundtrip for Site Visit (2 trips)	88.00	0.57	50.16
Site Plan Copies 24" X 36" color	4.00	6.15	24.60
Photocopy expense - Color copies of letters, e-mails & Ph. III Grade Eval. report, etc.	52.00	0.35	18.20

*Please make checks payable to "Pesce Engineering"*

**Thank You for Your Business!**

<b>Total</b>	<b>\$3,364.21</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$3,364.21</b>



## CORRESPONDENCE



**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 Elizabeth A. Pease, 14 Alderberry Circle, East Falmouth, MA.

(Map 21 Lot 045A ) under 240-10.2A of the Zoning By-Law, as amended to **grant** the special permit to remove the existing landing and steps and construct an open, covered porch.

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 15, 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](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>



**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 Susan Bateman, Trustee, 14 Clam Lane, East Falmouth, MA.

(Map 33 Lot 002) under 240-11.3A(4) of the Zoning By-Law, as amended to **grant** the special permit to add a pool and rinse station 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 15, 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](mailto: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 #042-23 Paul J. Reppucci and Sarah J. Briones, 24 Prospect Street, Falmouth, MA.:**

Applied to the Zoning Board of Appeals for a modification of special permit #042-96 pursuant to section(s) 240-10.2A & 240-11.3A(4) of the Code of Falmouth to utilize the premises as a single-family dwelling and to allow additional habitable space on the second floor of the detached garage. The subject property is 24 Prospect Street, Falmouth, MA.

Map 47A Section 13 Parcel 067 Lot(s) 033B

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**  
THE OLDEST TOWN ON CAPE COD



**Board of Appeals**

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

**Special Permit  
Certificate of Approval**

**Petition #** 23-07  
**Current Property Owner(s):** William and Patricia Rathbun  
**Applicant:** Jessica Sears  
**Property Address:** 566 Route 6A  
**Map, Parcel** 35-30  
**Certificate of Title:** 102957

**TOWN CLERK  
TOWN OF SANDWICH**

**JUN 21 2023**

**10 H 35 M A M**  
**RECEIVED & RECORDED**

On June 21, 2023 the Board of Appeals voted to approve a special permit from Sections 1330, 2420 & 4350 of the Sandwich Zoning By-law for property located at 566 Route 6A, as shown on Assessor's Map 35, Parcel 30, for the purpose of altering a pre-existing non-conforming dwelling and garage within the floodplain.

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

6/21/2023

Date

## **PROCEDURAL HISTORY**

1. An application from sections 1330, 2420 & 4350 of the Zoning By-Law for property located at 566 Route 6A was filed on March 29, 2023.
2. After proper notice was given the public hearing was opened on April 25, 2023 and closed on June 13, 2023.
3. The application was accompanied by a Site Plan entitled:  
Site Redevelopment Plan  
566 Route 6A, Sandwich MA  
Dated: January 16, 2023 and revised through March 27, 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  
Kevin Kirrane  
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 R2 Zoning District and the Flood Plain Overlay District.
3. The property consists of 3.1 acres with 482.05 ft. of frontage on Route 6A. The lot was created prior to zoning
4. The applicant wishes to raze the existing dwelling and garage, and construct two principal dwellings.
5. The proposed addition increases the non-conforming nature of the structure by 58%.
6. The existing non-conforming front yard setback will be improved from 3.4 feet to 10 feet.
7. Non-conforming lot coverage and lot area are pre-existing conditions.
8. The extension and alteration of the pre-existing non-conforming structure is not substantially more detrimental to the neighborhood than the existing nonconforming structure.
9. 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.

10. The structure is located in a FEMA AE flood zone elevation 14.

11. No fill or changes to the existing grade are proposed.

12. The Board finds as a result of ZBA member Neeven's first hand testimony that the use of the garage has not been abandoned.

13. The existing single family dwelling contains three bedrooms.

14. Section 4350 (2) requirements:

- a) The Board of Appeals finds that susceptibility of the proposed facility and the contents to flood damage and the effect of such damage upon the site and surrounding property is minimal.
- b) The Board of Appeals finds that there are not alternative locations for the proposed use which are not subject to flooding or erosion.
- c) The Board of Appeals finds necessity to the facility of a waterfront location.
- d) Board of Appeals finds that the relief requested is the minimum necessary

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

Second: Robert Jensen

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Kevin Kirrane	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. Erosion controls must be in place prior to construction and maintained throughout.
5. The maximum number of bedrooms on the site shall be no greater than three.

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

Second: Robert Jensen

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Kevin Kirrane	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 application for property located at 566 Route 6A, as shown on Assessor's Map 35, Parcel 30, for the purpose of altering a pre-existing non-conforming dwelling and garage within the floodplain.

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

Second: Robert Jensen

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Kevin Kirrane	Yes
	Robert Jensen	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](mailto:planning@sandwichmass.org)

**Special Permit  
Certificate of Approval**

**Petition #** 23-09  
**Current Property Owner(s):** Carlton B. Martin  
**Property Address:** 282 Phillips Road  
**Map, Parcel:** 95-80  
**Certificate of Title:** 231003

**TOWN CLERK  
TOWN OF SANDWICH**

**JUN 21 2023**  
**10 H 35 M 4 M**  
**RECEIVED & RECORDED**

On June 20, 2023, the Board of Appeals voted to approve a special permit from Sections 1330 & 4340 of the Sandwich Zoning By-law for property located at 282 Phillips Road, as shown on Assessor's Map 95, Parcel 80, for the purpose of constructing a single-family dwelling in the flood zone.

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

6/21/2023

Date

## **PROCEDURAL HISTORY**

1. Application from sections 1330 & 4340 of the Zoning By-Law for property located at 282 Phillips Road was filed on April 18, 2023.
2. After proper notice was given the public hearing was opened on May 9, 2023 and closed on June 13, 2023.
3. The application was accompanied by a Site Plan entitled:  
Proposed Site and Subsurface  
Sewage Disposal Plan  
In Sandwich MA  
Prepared for Carlton B. Martin  
#282 Phillips Road  
Dated: February 27, 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  
Kevin Kirrane  
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 R1 Zoning District and the Flood Plain Overlay District.
3. Applicant is proposing to raze the existing single family dwelling and rebuild a new single-family dwelling.
4. The lot is located in the FEMA Zone AE elevation 14.
5. 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.

6. Section 4350 (2) requirements:

- a) The Board of Appeals finds that susceptibility of the proposed facility and the contents to flood damage and the effect of such damage upon the site and surrounding property is minimal.
  - b) The Board of Appeals finds that there are not alternative locations for the proposed use which are not subject to flooding or erosion.
  - c) The Board of Appeals finds necessity to the facility of a waterfront location.
  - d) Board of Appeals finds that the relief requested is the minimum necessary.
7. No fill is proposed. The site will be replanted with beach grass to allow the beach dune to naturally grow and shift around and under the house

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

Second: Kevin Kirrane

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Kevin Kirrane	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. Erosion controls must be in place prior to construction and maintained throughout.

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

Second: Chase Terrio

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Chase Terrio	Yes
	Kevin Kirrane	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 for property located at 282 Phillips Road, as shown on Assessor's Map 95, Parcel 80, for the purpose of constructing a single-family dwelling in the flood zone.

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

Second: Kevin Kirrane

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



# Town of Sandwich

THE OLDEST TOWN ON CAPE COD



## Board of Appeals

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

TOWN CLERK  
TOWN OF SANDWICH

JUN 21 2023

10 H 35 M AM  
RECEIVED & RECORDED

### VARIANCE DECISION Certificate of Approval

<b>Petition #</b>	23-10
<b>Current Property Owner(s):</b>	William and Patricia Rathbun
<b>Applicant:</b>	Jessica Sears
<b>Property Address:</b>	566 Route 6A
<b>Map, Parcel</b>	35-30
<b>Certificate of Title:</b>	102957

On June 21, 2023 the Board of Appeals voted to approve a variance from Section 1321 and 2600 of the Sandwich Zoning By-law for property located at 566 Route 6A, as shown on Assessor's Map 35, Parcel 30, for the purpose of obtaining a 24.11ft. variance.

The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to approve a variance 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 variance, 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

6/21/2023

Date

## **PROCEDURAL HISTORY**

1. Variance application from Section 1321 and 2600 of the Zoning By-Law for property located at 566 Route 6A was filed on May 5, 2023.
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 plan entitled:  
Site Redevelopment  
566 Route 6A  
Sandwich Mass.  
Dated: January 16, 2023 and revised through March 27, 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  
Kevin Kirrane  
Robert Jensen

## **FINDINGS**

The Zoning Board of Appeals finds that:

1. The site is located in an R-2 zoning district and consists of 3.1 acres with 482.05 feet of frontage on Route 6A. The lot is comprised of wetlands and is entirely within a flood plain.
2. The applicant is proposing to construct two principal dwellings on a single lot. The main dwelling is required to be setback 45 ft. from the side lot line.
3. The applicant requests a variance of 24.11 ft. from the side lot line.
4. The applicant states that due to the shape of the lot it is not feasible to move the dwelling to a different portion of the lot without constructing it closer to the wetlands which also results in a financial burden.
5. Lot area is a pre-existing condition which does not require variance relief.
6. The Board of Appeals finds that:
  - a) A literal enforcement of the provisions of this bylaw involves a substantial hardship, financial or otherwise,
  - b) The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures but not affecting generally the zoning district in which it is located.

- c) Desirable relief may be granted without substantial detriment to the public good, or nullifying or substantially derogating from the intent or purpose of this by-law.

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

Second: Kevin Kirrane

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

### **CONDITIONS:**

At the public hearing, the Board of Appeals considered potential conditions of approval for this variance. The Board of Appeals voted that the following conditions of approval shall be imposed upon any approval of a variance 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 variance.
2. The variance shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded Variance is provided to the Board of Appeals.

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

Second: Kevin Kirrane

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

### **DECISION:**

Motion: I, James Killion, move to approve the variance application.

Second: Kevin Kirrane

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



## Town of Barnstable

Town of Barnstable  
Planning Board  
367 Main Street  
Hyannis, MA 02601

You are hereby notified that the Planning Board has filed its Decision and Notice with the Town Clerk at the Town Hall located at 367 Main Street, Hyannis, MA for notification of:

**Date:**  
**6/22/2023**  
Any appeal to this decision must be made pursuant to MGL, Chapter 40A, Section 17 and filed within 20 days from the date hereon with the municipal clerk.

TJA Clean Energy, has been granted with Conditions a Decision and Notice of Approval for a Special Permit for 810 Wakeby Road, Marstons Mills MA Map/Parcel 013/4, 5, 52 for a ground mounted Solar Photovoltaic installation.

Public files are available for viewing by contacting Karen.herrand@town.barnstable.ma.us or calling 508-862-4064

[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)