



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Meeting of the Mashpee Planning Board

Wednesday, May 19, 2021

Waquoit Meeting Room

Mashpee Town Hall

16 Great Neck Road North

Mashpee, MA 02649

7:00 PM

Virtual / Remote Meeting

Broadcast Live on Local Channel 18

Call in Conference Number: 508-539-1400 extension 8585

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 May 5, 2021

Public Hearing

7:10 PM – Proposed amendments to the Mashpee Rules and Regulations Governing the
Subdivision of Land

Approval Not Required

Applicant: Robert Allen and Michelle A. Wolpe
Location: 80 & 84 Punkhorn Point Road
Request: Propose to create and swap two parcels of land.

New Business

- Reorganization of Board Officers
- Board Representatives and Assignments to Committees, Commissions and Boards
- Vote to nominate Planning Board representatives to review Local Comprehensive Plan RFP Responses
- Discussion and approval of proposed amendments to Planning Board Special Permit Regulations – schedule of fees

Old Business

- Update, Discussion and possible action relative to Mashpee Commons Development Agreement

Chairman's Report

Town Planner Report

MASHPEE TOWN CLERK

MAY 14 2021

RECEIVED BY: _____



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

Board Member Committee Reports

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Historic District Commission, Military Civilian Advisory Council.

Correspondence

- Town of Sandwich Notices
- Town of Falmouth Notices
- Town of Barnstable Notices
- Waterways Application - 45 Popponeset Island Road - Lisa and Christopher Conti
- March 2021 Discharge Monitoring Report for South Cape Village – N=4.1
- February 2021 Discharge Monitoring Report for South Cape Village – N=5.0
- January 2021 Discharge Monitoring Report for South Cape Village – N=6.1

Additional Topics (not reasonably anticipated by Chair)

Adjournment



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

**Mashpee Planning Board
Minutes of Meeting
Wednesday, May 5, 2021 at 7:00PM
Mashpee Town Hall - Waquoit Meeting Room
16 Great Neck Road North
Mashpee, Ma 02649**

Virtual/Remote Meeting Call-in: (508)-539-1400 x 8585

Broadcast Live on Local Channel 18 and Streaming at <https://www.mashpeema.gov/channel-18>

Present: Chairman John (Jack) Phelan, Mary Waygan, Dennis Balzarini, John Fulone, Joseph Callahan and Robert (Rob) Hansen

Also Present: Evan Lehrer- Town Planner, Ed Pesce- Consulting Engineer, Stuart Rapp- Ethelleen Antunes Trustee

CALL TO ORDER

Chairman Phelan opened the meeting at 7:00p.m. and welcomed Planning Board members to the meeting. Due to the pandemic and the Town of Mashpee regulations, the meeting was being held virtually, but the Chair announced that it is live streaming on Channel 18 and could also be viewed at <https://www.mashpeema.gov/channel-18>.

The call-in number is (508) 539-1400, extension 8585, but no calls were being taken this evening. The public is also invited to submit questions or comments to the Town Planner at elehrer@mashpeema.gov. All correspondence will be forwarded to the Board and presented at the next Planning Board meeting.

The Pledge of Allegiance was recited. Chairman introduced new Board Secretary Chrissy MacDonald. Mr. Phelan also welcomed Ed Pesce, Consulting Engineer.

APPROVAL OF MINUTES- April 21, 2021

There were no comments regarding the minutes.

MOTION: Mr. Balzarini made a motion to approve the minutes. Ms. Waygan seconded the motion. All voted unanimously to accept the minutes.

NEW BUSINESS

Update on ongoing projects from Consulting Engineer Ed Pesce

Mr. Pesce was excited to be present and is grateful for being selected. He acknowledged having a good discussion with former Town Engineer, Charles Rowley and Town Planner, Evan Lehrer prior to his first construction site visit. Last week Mr. Pesce visited the two main active areas:

- New Seabury Phase 4 site
- Riverbend Condos at Willowbend

New Seabury: Mr. Lehrer and Mr. Rowley provided Mr. Pesce with contacts. He spoke with Nick Pastore of Pastore Excavation, Kevin Mahoney his on-site Superintendent, and Nick Galanis with New Seabury Real Estate. Last Thursday, Mr. Pesce met Chairman Phelan at the site for a walk through and Mr. Pesce had the plans and was able to orient himself with the early phase site work. He expressed concerns about drainage management temporarily while on site. Chair Phelan noted one low spot as you enter (SW side). Mr. Pesce does not want this to be a conflict for neighbors as there are abutters.

Riverbend at Willowbend: Met with Dig It Construction Project Manager Keith Fernandes and Owner Kerry Sullivan along with Willowbend team at the Riverbend site. Mr. Pesce was able to speak with Gary Smith of Willowbend, as Dennis Ring was out of town. All framing and construction of buildings is completed, and the infrastructure is 90% done. Restoration, landscaping, and erosion control work is critical before it becomes a problem leading out to Sampsons Mill Rd. Mr. Pesce instructed installing erosion controls especially on the back down slope side where there is a detention basin, as to avoid erosion where it is not seeded yet. Mr. Pesce was able to elaborate the concerns to Mr. Smith and the Willowbend landscapers what was expected. Mr. Pesce will also send a follow up email and complete a follow up visit this next week. Loaming and seeding will be completed on the entry abutting the fairway on the left. There are a bunch of drainage systems behind the houses that needed to be addressed. He expected there would be nothing to worry about, which was not the case. Mr. Pesce placed emphasis on drainage management and erosion control. In the interim, the Zoning Board Chair reached out as they recently prepared two decisions for two different projects. The projects are not big, but they have asked the towns Consulting Engineer, Charlie Rowley or his replacement, to review these plans. Mr. Pesce wanted to make the Planning Board aware of his other obligations and remain transparent about his workload presently.

Mr. Balzarini questioned why the project at New Seabury phase 4 was lacking an enclosure. He explained there is a large hole when you are driving into New Seabury near the real estate office. He suggested the whole project should have a fence around it for safety reasons i.e. children riding bikes or wandering in the site. Mr. Pesce did not pull into that section because it was fenced but he had walked down there with Chairman Phelan and Nick Galanis. He mentioned anyone could walk in there. Mr. Balzarini reiterated it was a public concern especially with the summer busy season approaching. Mr. Pesce will make it a point to speak to Kevin Mahoney and address construction site safety checks at the end of each workday, including guarding against unauthorized traffic, separate from regular public access.

Chairman Phelan wanted to add clarity. He noted the earlier phases (two and three) were in areas of low foot traffic. In phase four, especially with summer approaching, high foot traffic allows for much greater chance of people walking through the site, especially children.

Ms. Waygan also mentioned a citizen at Town Meeting approached her about this particular area not having a fence.

Chair offered a moment for anything further to be added. Everyone thanked Mr. Pesce.

Request for Release of Covenant – 111 Orchard Rd., Ethelleen Antunes Living Trust

Mr. Stuart Rapp present on behalf of Ethelleen Antunes revocable living trust. She passed a couple of years ago. Mr. Rapp recently sold 111 Orchard. The attorney of the buyer informed Mr. Rapp shortly before closing that this covenant she granted to the town in February of 1992 needed to be released. The closing took place, house has been conveyed, and there is significant amount of money in escrow pending release of covenant.

Mr. Lehrer had previously asked if this is municipal town water, which it has. Mr. Rapp is seeking the release of the covenant.

Chairman Phelan deferred to Evan Lehrer Town Planner for historical perspective.

Mr. Lehrer said subdivision was approved in January 1992. Ms. Antunes owned the entire 12.3-acre parcel that was subdivided, her home 111 Orchard was preexisting prior to subdivision. 111 Orchard had access directly to Orchard Road with no frontage on subdivision street, which was built as result of approval, Antunes Avenue. The vast majority of lots have been released including all lots with frontage on the already existing town ways (Orchard and Quinaquisset) and these were 1,2,3,4,5, and 7. There was no roadway construction that would have been required to gain access to the lots. Number 6 should have been released as well, pursuant to same criteria. Noted in the file were some issues with drainage structures in place on Antunes Ave. For the same reasons previous lots were released due to existence and access to Quinaquisset and Orchard, 111 Orchard would have been released along with them. Mr. Lehrer has given his recommendation to the Board to release lot 6. Chair entertained a motion to release the lot.

MOTION Mr. Balzarini made a motion to release the covenant. Mr. Callahan seconded the motion.

Roll call vote: Mr. Balzarini- yes; Ms. Waygan- yes; Mr. Fulone- yes; Mr. Callahan- yes; Chairman Phelan- yes

All voted unanimously to release the covenant at 111 Orchard Road.

OLD BUSINESS

Update, Discussion and possible action relative to Mashpee Commons Development Agreement

Chairman Phelan prepared a statement he wanted to share with the Board and the Community to put into perspective where they are in the agreement with Mashpee Commons and related zoning amendment proposals. No motions or actions will be taken at Board level this evening. He wanted to reset the tone from last meeting. Chairman also wanted to remind everyone of the Boards adopted policy of providing written or verbal comments to the Planning Board. These can be found on the Planning Board website. Public comment may be taken at a public meeting, but it will be taken at a duly advertised public hearing, to separate the two. Mr. Phelan urges the community to submit comments or concerns on all matters of planning for the Boards review. Once a schedule for public hearings is established the public can have some clarity to assume opportunities for discussion.

Chairman elaborated on approaching every meeting with an open mind and making an honest assessment of facts prior to casting a vote on any motion. The Board was elected to provide a mutually beneficial regulatory solution and to act with the best of intentions. Chair urged fellow Board members to collaborate and allow the process to play out and address all issues that are critical concerns to Mashpee residents. There needs to be a focus on zoning to make determinations regarding affordable housing needs, natural resource protections, traffic etc. We (Planning Board) must participate and engage with the community and proceed in a thorough and professional manner consistent with established procedures. While Mr. Phelan stands by the outcome of last meeting, he was dissatisfied in the manner of how we (Planning Board) got there. Mr. Lehrer has met with Mashpee Commons and Cape Cod Commission to begin discussing the process and next steps. The Board needs to establish availability to have subcommittee meetings/extra meetings to address zoning. Chairman took inventory of availability amongst the group for extra meetings: Mr Balzarini stated any day works, Ms. Waygan stated Wednesday/Thursday evenings, Mr. Fulone is available most days after 5p.m., Mr. Hansen is available Tues/Wed, Mr. Callahan said evenings after 5p.m. during the week, and Chairman Phelan Tues-Thurs.

Chair wants to present zoning articles to the town in October, his big goal.

Ms. Waygan stated the bylaw must be done by first Monday in July. She noted this does not allow for a lot of time. She also posed the question when the Board would get the written bylaw. Chairman Phelan reiterated it is a tight timetable and they will work through the process.

Mr. Lehrer commented the expectation is next meeting there will be a presentation of public meeting and public hearing schedules and the bylaw will be forthcoming.

Ms. Waygan asked if Mashpee Commons will be making a presentation regarding zoning and a master/ conceptual plan presentation.

Mr. Lehrer anticipates the process moving forward will be to establish availability beyond Wednesday and assess when we can hold public meeting and public hearings. There are two one-page documents relative to components of the development agreement as zoning, and assessment of what current zoning regulations allow. There will also be a schedule for component meetings.

Ms. Waygan posed the question if conversation about when the development agreement process starts and how this all melds. Will they form a subcommittee?

Mr. Lehrer noted the importance of Board and community members understanding what these pieces are so the zoning conversation can best engage the public in a meaningful way. The process has started with zoning conversation, one component, but tackling the zoning first is critical. When the Commission votes on the development agreement, may or may not occur before or after zoning. Cape Cod Commission will have a subcommittee.

Ms. Waygan thanked Chairman Phelan for allowing the public to participate. She wanted to reiterate from earlier that Town Hall might be open as soon as June 1st. Ms. Waygan also noted on May 19th the Board will get a schedule of meetings including times when public can comment. Mr. Lehrer stated disseminating the schedules was a primary goal in the next step. Ms. Waygan also wanted to note there was a discrepancy in minutes two weeks ago where / how the public can comment. Chair Phelan assured everyone the link was now active on the Board site. Chairman elaborated in the notes the email address for Mr. Lehrer was added for way of comment as well.

Ms. Waygan stated that best practice is to do bylaw last. First need is to negotiate everything as there is a development agreement bylaw. She wanted to echo the responsibility the Board has pertaining to negotiating. Ms. Waygan thinks everyone should familiarize themselves with the development agreement regulations from Cape Cod Commission. She stated she is not a shy negotiator, and she is not a mean negotiator and she wanted to push back on that a bit. Ms. Waygan went on to say the conceptual pieces and master plan and parameters are discussed with the public comment ahead of time then codified in the bylaw. She felt there was a backwards approach, and it will create a lengthier and more difficult bylaw process. She does not think they will make the July deadline for submittal.

Chair appreciated her sentiments and acknowledged he hears what she is saying. Mr. Phelan suggested let the process start and go from there, see how it plays out.

Mr. Balzarini asked about their master plan. He would like to see the traffic pattern to 28 and 151, as he is interested in the master plan for road layouts for this project. He wishes to see this before there are changes to zoning.

Mr. Lehrer felt similar to Mr. Balzarini, as it is challenging for everyone to make an internal assessment, so Mr. Lehrer specifically asked for the regulatory plan along with zoning. This will lay out streets, civic spaces, parks, and open space so you can see how blocks and buildings would be situated. It is his expectation it would be part of this development agreement so the Board and public can have some context to react to technical information.

Mr. Pesce wanted to explain the development agreement process to the Board. In order to be eligible, a notice of intent needs to be filed with the Committee of Planning and Regulation. This is like a subcommittee that makes a judgement recommendation by looking at all the criteria. You present to subcommittee of Planning and Regulations and get their vote, then a letter is drafted by subcommittee to general Commission, then get another vote to accept as an applicant, then the application is filed. Mr. Pesce also took a minute to acknowledge how lucky the Planning Board was to have a say, that this is a key player in the community. He mentioned with the zoning amendment being done now, there is nothing, in his opinion, wrong with that process. Getting a zoning amendment approved is part of the process. It opens the dialogue for Commission to provide a draft to present to Town Meeting. With two months to get this done, is not much time, but it does not need to be that much time, it needs to be discussed and deliberated and have public hearings.

Mr. Lehrer thanked Mr. Pesce but wanted to remind the Board of where they stand in the process. The notice of Intent for the development agreement was filed in March 2020 with a letter of support submitted by Board of Selectman shortly thereafter. The Commission determined the project eligible and in March of 2021 the application was filed along with a letter reaffirming the towns intent to be joining parties. Ms. Waygan asked if the criteria had been met, Mr. Lehrer stated Cape Cod Commission accepted and criteria was met.

Chair thanked both Mr. Pesce and Mr. Lehrer for clarification.

CHAIRMANS REPORT

Encompasses old business.

TOWN PLANNER REPORT

Local Comprehensive Plan RFP Update

RFP was advertised in Central Register and CommBuys. We have several interested firms. The dates have been shifted around, about a month behind from original proposed date due to council receiving comments late. This was the first week it was being advertised and the bids are due first week of June. Mr. Lehrer will report back on process moving forward. The RFP does request two members of the Planning Board participate in the initial evaluation, then a recommendation is made to the full Board, who can then make a recommendation to the Chief Procurement Officer. Next meeting, Mr. Lehrer is asking the Board to consider appointees for the initial evaluation team. Between now and June any action will be included on next agenda and process will be working.

Ms. Waygan asked if the Planning Board was the selection committee for RFP?

Mr. Lehrer reiterated yes as part of the initial minimum responsiveness criteria. The Town Manager, Town Planner, and two members will review bids then provide to full Board. The Planning Board will then make a recommendation to Town Manager as well as have the option for interviewing consultants should full Board request.

BOARD MEMBER COMMITTEE REPORTS

Cape Cod Commission- No Report

Community Preservation- No Report

Design Review- Met this week for approval of two sign proposals.

Country Club Estates: Design approved, further approval of size was needed.

40 Evergreen Circle: Construction yard sign was correct size (12 square feet) Approved

Plan Review- No Report

Environmental Oversight Committee- No Report

Historic District Commission- No Report

Military Civilian Advisory Council- No Report

Chairman Phelan asked if there was anything else for the good of the Board.

Mr. Pesce wanted to say he was thrilled to see such overwhelming positive support at the Town Meeting for the wastewater comprehensive plan, and kudos to Mashpee. Congratulations!

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn the meeting. Mr. Callahan seconded the motion. All voted unanimously.

The meeting adjourned at 7:48p.m.

Respectfully submitted,

Christine M. MacDonald
Board Secretary

LIST OF DOCUMENTS

Additional documents may be available in the Planning Department.

- Planning Board Meeting Minutes from April 21, 2021
- Aspen Blue Mashpee – Notice of Community Outreach Meeting
- Town of Falmouth Notices
- Town of Sandwich Notices
- Waterways Application – Suzanne & Kevin McCartney – 0 Melissa Avenue
- Waterways Application – Town of Mashpee – 664 Great Neck Road South
- Waterways Application – John Ghublikian, Jr. – 140 Summersea Road
- Waterways Application – The 134 Popponesset Island Realty Trust – 134 Popponesset Island Rd.
- Waterways Application – Leslie Caffyn – 10 Popponesset Island Rd.
- February 2021 Discharge Monitoring Report for South Cape Village – N=5.0
- January 2021 Discharge Monitoring Report for South Cape Village – N=6.1
- December 2020 Discharge Monitoring Report for South Cape Village – N=5.3

Mashpee Planning Board
Public Hearing Notice

Please be advised, if the Mashpee Town Hall is still closed to the public due to the COVID-19 public health emergency the public may participate in the following manner:

Virtual / Remote Meeting

Broadcast Live on Local Cable Channel 18

Call in Conference Number: (508) 539-1400 extension 8585

***Streamed Live on the Town of Mashpee Website:**

<https://www.mashpeema.gov/channel-18>*

Pursuant to Massachusetts General Laws, Chapter 41 Section 81Q, the Mashpee Planning Board will hold a public hearing on Wednesday, May 19, 2021 at 7:10PM at the Mashpee Town Hall, 16 Great Neck Road North, to consider updating the Mashpee Rules and Regulations Governing the Subdivision of Land. The Planning Board is considering an amendment to its schedule of fees to require the submission of a retainer to be held in escrow for the purposes of peer-review of any submitted plans by the Consulting Engineer and any required inspections.

Submitted by:

John Phelan, Chair
Mashpee Planning Board

Publication dates: Friday, April 30, 2021
 Friday, May 7, 2021

MASHPEE TOWN CLERK

APR 30 2021

RECEIVED BY: _____

VK



FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

Date: May 7, 2021

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 Robert Allen and Michelle A. Wolpe Phone 508-477-7272

Address 31 Heritage Drive, Walpole, MA 02801

Owner, if different Same and James C. Atkins Phone 508-477-7272

Address 92A Beach Street Cohasset, MA 02025

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessor's certification. 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 27544 Page 240
32859 62

Land Court Certificate of Title No. _____

Location and description of property 80 and 84 Punkhorn Point Road, Mashpee, MA. #80 consists of 74,850 +/- sq. ft. of upland and #84 consists of 64,500 +/- sq. ft. of upland. Zone R-3. Propose to create and swap two parcels of land. Parcels A & B are non-buildable. Parcel A to be conveyed from Lot 2 (#84) and annexed to Lot 1 (#80). Parcel B to be conveyed from Lot 1 (#80) and annexed to Lot 2 (#84).

Mashpee Assess map(s) and Block(s) 100 - 4 (#80) and 100 - 5 (#84)

Signature of Owner or Authorized Representative _____

(Handwritten Signature)
Cape & Islands Engineering, Inc.

Attach written authorization signed by owner.

ROBERT A WOLPE
MICHELLE A WOLPE
31 HERITAGE DR
WALPOLE, MA 02081-2207

9418

53-13/110 MA
26687

5/2/21

Date

Pay to the
Order of

Town of Marjpee

\$ 100.00

One Hundred ⁰⁰/₁₀₀

Dollars



Photo
Safe
Deposit
Details on back

BANK OF AMERICA

ACH R/T 011000138

For

ANR fly fee

Ruth

RP

⑆011000138⑆ 000021215732⑆9418

April 29, 2021

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

**RE: Application for Approval Not Required for 80 and 84 Punkhorn Point
Road, Mashpee, MA**

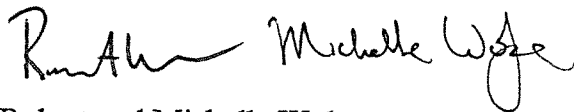
Dear Mr. Lehrer:

This letter is in regard 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 my behalf.

If you have any questions, please feel free to contact me at 508-941-9630.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert and Michelle Wolpe". The signature is written in a cursive style.

Robert and Michelle Wolpe
31 Heritage Drive
Walpole, MA 02081
508-941-9630

Cc: Cape & Islands Engineering, Inc.

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 May 6, _____, 20 21 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

Robert A. and Michelle Wolpe _____, 31 Heritage Drive, Walpole, MA 02081 _____
Applicant name Applicant address

The land to which the application relates appears on the current Mashpee Assessors Maps as
100 - 4 and 100 - 5

and is generally described as located

80 and 84 Punkhorn Point Road, Mashpee, MA. #80 consists of 74,850 +/- sq. ft. of Upland and #84 consists of 64,500 +/- sq. ft. of Upland. Zone R-3. Propose to create and swap two parcels of Land. Parcels A & B are non-buildable. Parcel A to be conveyed from Lot 2 (#84) and annexed to Lot 1 (#80). Parcel B to be conveyed from Lot 1 (#80) and annexed to Lot 2 (#84).

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 21 .

for Mashpee Planning Board

Dear Mr. [Name]

Mr. [Name]
[Address]
[City, State, Zip]
[Phone Number]

Re: [Subject]

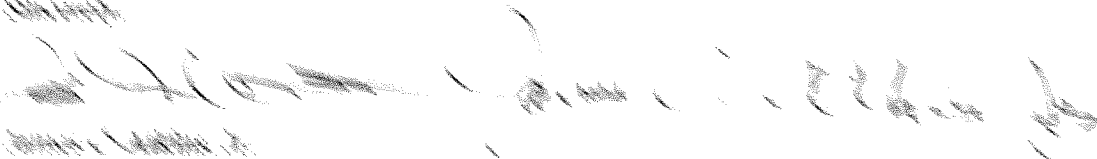
Dear Mr. [Name]

[Text]

[Text]

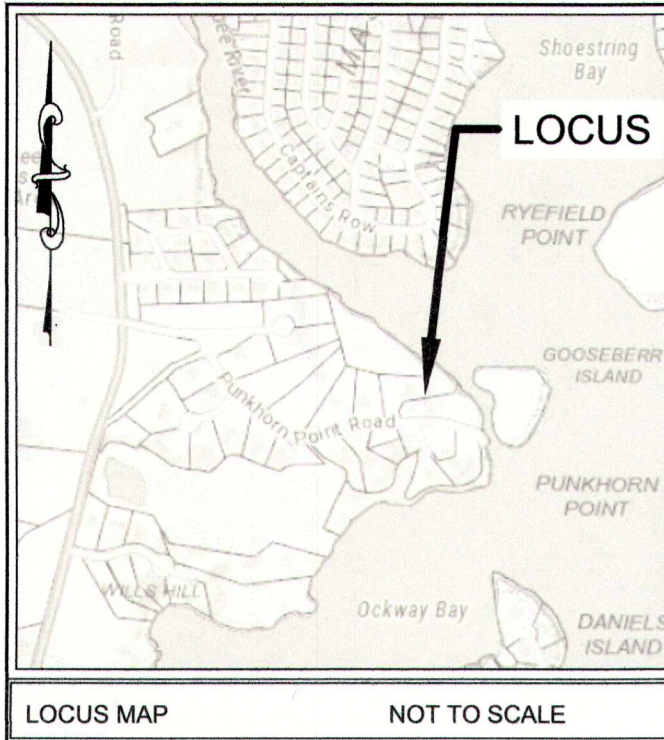
[Text]

[Text]



[Text]

[Text]



PLANNING BOARD APPROVAL UNDER THE
SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED _____ DATE SIGNED _____

MASHPEE PLANNING BOARD
NO DETERMINATION AS TO COMPLIANCE WITH ZONING
REQUIREMENTS HAS BEEN MADE OR INTENDED BY THIS
ENDORSEMENT UNDER MGL CHAPTER 41, SECTION 81L.

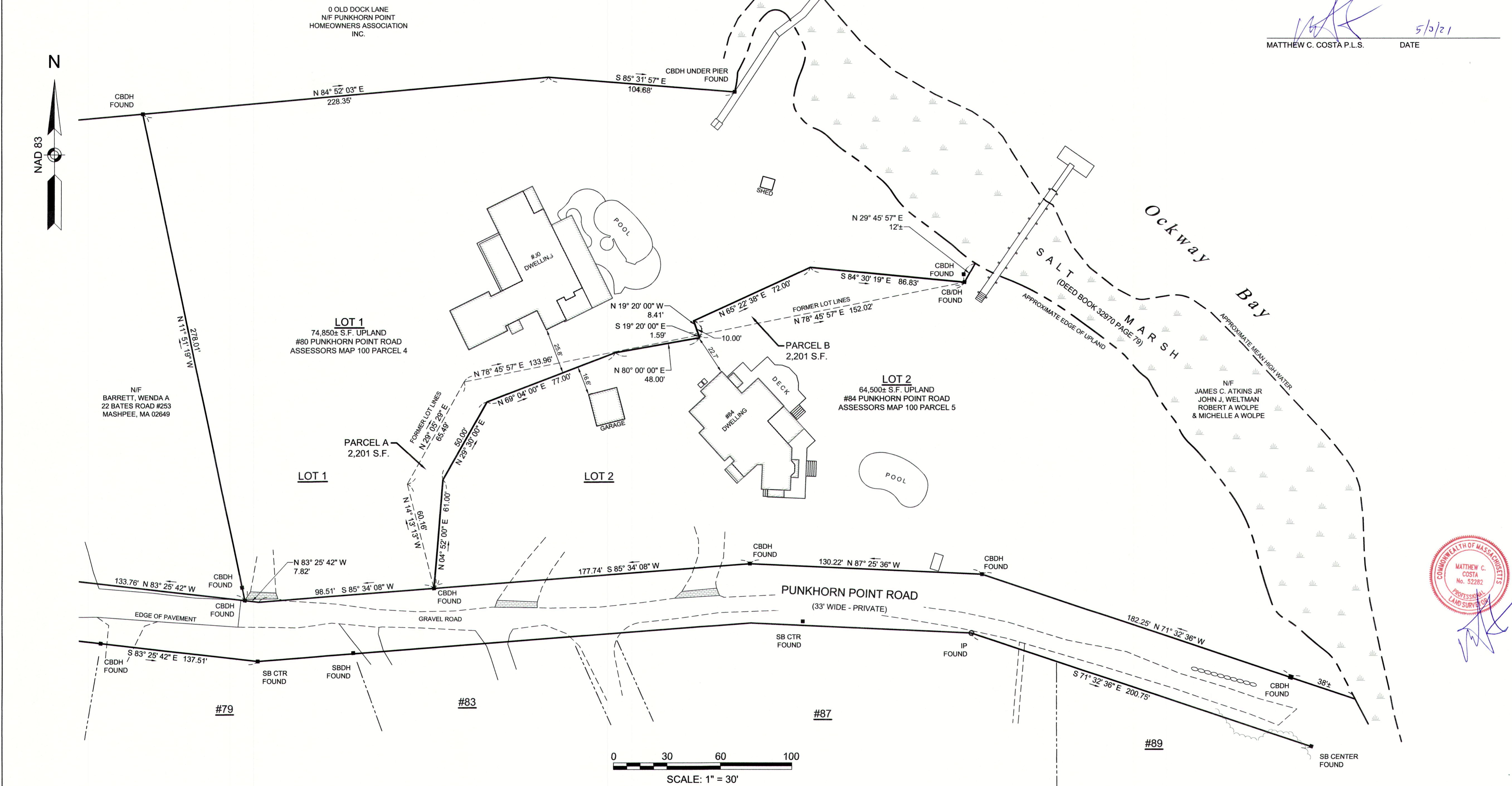
I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE
REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY
OF DEEDS.

[Signature] 5/3/21
MATTHEW C. COSTA P.L.S. 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.

[Signature] 5/3/21
MATTHEW C. COSTA P.L.S. DATE

FOR REGISTRY USE ONLY



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-3
PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE
DESIGNATION OF AE (ELEV. 11) & X (.02%) BY THE FEDERAL
EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD
INSURANCE RATE MAP NO. 25001C0752J, WITH A MAP
EFFECTIVE DATE OF
JULY 16, 2014.

DEED REFERENCE: DEED BOOK 32859 PAGE 62
DEED BOOK 27544 PAGE 240
PLAN REFERENCE: PLAN BOOK 557 PAGE 4

PLAN PURPOSE
THE PURPOSE OF THIS PLAN IS TO CREATE AND SWAP TWO
PARCELS OF LAND.

PARCELS A & B ARE NOT BUILDABLE LOTS.
PARCEL A IS TO BE CONVEYED FROM LOT 2 AND ANNEXED TO
LOT 1.
PARCEL B IS TO BE CONVEYED FROM LOT 1 AND ANNEXED TO
LOT 2.

OWNERS
LOT 1 (80 PUNKHORN POINT ROAD)
JAMES C. ATKINS &
JOHN J. WELTMAN
92A BEACH STREET
COHASSET, MA 02025
DEED BOOK 27544 PAGE 240
LOT 2 (84 PUNKHORN POINT ROAD)
ROBERT ALLEN WOLPE & MICHELLE WOLPE
31 HERITAGE DRIVE
WALPOLE, MA 02081
DEED BOOK 32859 PAGE 62



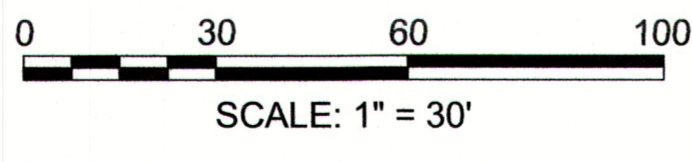
NOTICE
THIS PLAN MAY NOT BE ADDED TO, DELETED FROM, OR ALTERED IN ANY WAY BY ANYONE OTHER THAN CAPE &
ISLANDS ENGINEERING, INC.
UNLESS AND UNTIL SUCH TIME AS AN ORIGINAL (RED) STAMP APPEARS ON THIS PLAN NO PERSON OR
PERSONS, MUNICIPAL OR PUBLIC OFFICIAL MAY RELY UPON THE INFORMATION CONTAINED HEREIN; 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: | ROBERT ALLEN & MICHELLE WOLPE 31 HERITAGE DRIVE WALPOLE, MA 02081 | | |
| PROJECT: | 80 & 84 PUNKHORN POINT ROAD MASHPEE, MASSACHUSETTS | | |

SHEET NO.: 1 OF 1 DATE: APRIL 21, 2021
DRAWN BY: JVB CHECKED BY: MC

CAPE & ISLANDS ENGINEERING
SUMMERFIELD PARK 800 FALMOUTH ROAD SUITE 301C MASHPEE, MA 02649
508.477.7272 PHONE 508.477.9072 FAX www.CapeEng.com

DRAWING TITLE: **PLAN OF LAND**
ASSESSORS INFORMATION: MAP 100 PARCEL 5



To: Mashpee Planning Board

From: Evan Lehrer, Town Planner

Date: 5/14/2021

RE: Proposed meeting schedule to review Community Activity Center Overlay District Bylaw Proposal

Note: Times need to be discussed at the Wednesday, 5/19 meeting.

May 19, 2021 - Discuss and Adopt proposed meeting schedule

June 2, 2021 - AM : Provide draft zoning bylaw and go on site tour with Commons and Commission
PM: Commons presentation of proposed zoning overlay district and Board discussion

June 8, 2021 - Zoning discussion and deliberation (Must adjourn by 7:00 PM)

June 10, 2021 - Zoning discussion and deliberation

June 16, 2021 - Continue to revise draft

June 23, 2021 - Continue to revise draft, potential public listening session

June 30, 2021 - Final review of proposal, potential vote to submit to the Selectmen.

Patricia Maguffin

From: Evan Lehrer
Sent: Wednesday, May 12, 2021 1:19 PM
To: Patricia Maguffin
Subject: FW: PUBLIC COMMENT to PLANNING BOARD RE: MASHPEE COMMONS

From: Arden Cadrin [mailto:arden.cadrin@gmail.com]
Sent: Wednesday, May 12, 2021 1:04 PM
To: Evan Lehrer <ELehrer@mashpeema.gov>
Subject: Fwd: PUBLIC COMMENT to PLANNING BOARD RE: MASHPEE COMMONS

WARNING! EXTERNAL EMAIL: : This message originated outside the Town of Mashpee mail system. DO NOT CLICK on links or attachments unless you are absolutely certain the content is safe.

PlanningBoard@MashpeeMA.gov
jphelan.planningboard@comcast.net

elehrer@mashpeema.gov

TO: CHAIRMAN JOHN PHELAN AND THE MASHPEE PLANNING BOARD

This development agreement process with Mashpee Commons is backwards!

Zoning is a local tool used to plan for growth, preserve character and implement a community's long-term vision. Mashpee's zoning, which includes regulations, density, design standards and land use, should be developed by Mashpee citizens, through their elected Planning Board members. Our local zoning bylaws should result in development (or lack of development) that enables that predetermined community vision to come to fruition. Typically, once the zoning is in place, the town accepts and reviews applications from developers to determine if that proposal meets the goals and vision of OUR zoning and OUR community vision.

With this Mashpee Commons development agreement process, the developer (Mashpee Commons) is writing the zoning that will enable their own project! Additionally, to add insult to injury, they are suggesting that only two planning board members be involved in that enormously important

process of creating NEW zoning that will allow for their development. In this case, once this new zoning is in place, the Mashpee Commons project is essentially in place.

Mashpee, who do you want planning our future?

Signed, Arden R. Cadrin, Mashpee, MA

--

Arden Russell Cadrin

Patricia Maguffin

From: Evan Lehrer
Sent: Wednesday, May 12, 2021 1:20 PM
To: Patricia Maguffin
Subject: FW: PUBLIC COMMENT TO MASHPEE PLANNING BOARD RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

From: Mary Mary [mailto:waygan@hotmail.com]
Sent: Tuesday, May 11, 2021 9:19 PM
To: Jack Phelan <jphelan.planningboard@comcast.net>; Evan Lehrer <ELehrer@mashpeema.gov>; Evan Lehrer <ELehrer@mashpeema.gov>
Subject: PUBLIC COMMENT TO MASHPEE PLANNING BOARD RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

WARNING! EXTERNAL EMAIL: : This message originated outside the Town of Mashpee mail system. DO NOT CLICK on links or attachments unless you are absolutely certain the content is safe.

Dear Chairman Phelan and the Members of the Mashpee Planning Board

I submit here, as public comment, email correspondence from 2018 and 2019 regarding the Mashpee Commons by Design - Form-based Code and the zoning bylaw proposed by Mashpee Commons at that time. The start of email thread lists the questions the Planning Board had at the time regarding a proposed Form-based Code zoning bylaw. I hope this information is helpful as background information to the currently proposed Mashpee Commons Expansion.

Yours,
Mary Waygan
35 Ashumet Rd, Mashpee, MA

From: Tom Feronti <tom@mashpeecommons.com>
Sent: Friday, February 1, 2019 3:22 PM
To: Mary Mary
Subject: RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

Mary,
It was very nice to see you after the Board of Selectmen that evening. We at Mashpee Commons are very sorry to hear about the loss of your father. We're thinking of you and your family during this very difficult time. Per our conversation after that meeting, I would like to reiterate that we are not proposing any zoning changes for the May 2019 Town Meeting. We feel that there is a lot of necessary and meaningful dialogue currently happening amongst town stakeholders regarding the development of a vision for the Town. We're happy to observe and be a part of that important conversation, and we feel it deserves the appropriate amount of time necessary to see it through. With that in mind, we do not find it necessary to rush to a May Town Meeting deadline.

If you have any questions, please do not hesitate to reach out to me. Again, we are very sorry to hear of your loss, and we wish you and your family the very best as you go through this.

Thanks,
Tom

From: Mary Mary <waygan@hotmail.com>
Sent: Friday, February 01, 2019 9:28 AM
To: Tom Feronti <tom@mashpeecommons.com>
Subject: Re: Mashpee Commons By Design - Form-based Code (7:51 AM)

Hi Tom,
Just following up on our conversation Jan 15th regarding the Form-Based Code zoning bylaw. You indicated at that time Mashpee Commons is not proposing any zoning changes for May Town Meeting. Can you please confirm? Thanks!!
Mary Waygan, Chair
Mashpee Planning Board

From: Mary Mary <waygan@hotmail.com>
Sent: Saturday, November 3, 2018 3:19 PM
To: Tom Feronti
Cc: Evan Lehrer
Subject: Re: Mashpee Commons By Design - Form-based Code (7:51 AM)

Hi Tom,
The Planning Board meets next Wednesday November 7, 2018. What materials will you be submitting to the Planning Board for our 11/7/18 meeting in response to the Boards request for information below? Please provide the materials electronically to the Town Planner and to me (waygan@hotmail.com) and by hard copy for distribution to board members, recording secretary, board engineer, town planner, and the file.
Thanks!
Mary Waygan, Chair
Mashpee Planning Board

From: Tom Feronti <tom@mashpeecommons.com>
Sent: Thursday, September 27, 2018 3:52 PM
To: Mary Mary
Cc: Evan Lehrer
Subject: RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

Chairman Waygan,
We have evaluated the proposed questions and are working on preparing answers to those that can be answered at this point in time. Many of the questions involve more thorough and comprehensive studies that are not yet complete. We have found that some of the questions are more project specific, relying upon definitive zoning regulations to define the study, and are not able to be answered based on where we are in the process.
Our hope is that the information that we are assembling will help inform the Planning Board, as well as the community as a whole, about the positive benefits that the expansion of Mashpee Commons would be able to provide.
As discussed during our last visit with the Planning Board, we are committed to working with the Planning Board, as well as other Boards and Committees in Town, to take the time necessary to review this zoning proposal. We are working

diligently and, while we do not have anything ready to submit to the Planning Board as of yet, very much look forward to continuing the productive dialogue that began earlier this year.
Please let me know if you have any further questions.

Thanks,
Tom

From: Mary Mary <waygan@hotmail.com>
Sent: Friday, September 21, 2018 7:37 AM
To: Tom Feronti <tom@mashpeecommons.com>
Subject: Mashpee Commons By Design - Form-based Code (7:51 AM)

Hi Tom,
The Planning Board meets next Thursday 9/27/18. What materials will you be submitting to the Planning Board for our 9/27/18 meeting in response to the Boards request for information below? Please provide the materials electronically to the Town Planner and to me (waygan@hotmail.com) and by hard copy for distribution to board members, recording secretary, board engineer, town planner, and the file.

Thanks!
Mary Waygan, Chair
Mashpee Planning Board

Sent from [Outlook](#)

From: Mary Mary <waygan@hotmail.com>
Sent: Wednesday, August 29, 2018 7:19 PM
To: Tom Feronti
Subject: Re: Mashpee Commons By Design - Form-based Code (7:51 AM)

Sent from [Outlook](#)

From: Tom Feronti <tom@mashpeecommons.com>
Sent: Tuesday, August 28, 2018 2:19 PM
To: Mary Mary
Subject: RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

Chairman Waygan,
Thank you for sending the list of questions generated by the Planning Board at their most recent meeting. To confirm, the list included in the email below is the revised list (superseding the list sent earlier the same morning) and that which we should use.
As to our conversation at the One Cape Conference, have you had an opportunity to determine the process that you would like us to follow for providing responses to the Board?

Thanks,
Tom

From: Mary Mary <waygan@hotmail.com>
Sent: Monday, August 27, 2018 7:52 AM
To: Tom Feronti <tom@mashpeecommons.com>
Subject: Mashpee Commons By Design - Form-based Code (7:51 AM)

Dear Tom,

Thank you for your email regarding the Planning Board's August 15, 2018 meeting. In response, on August 15, 2018, at their regular meeting, the Mashpee Planning Board discussed the need for more information regarding the proposed expansion of Mashpee Commons. Listed below is the Planning Board's current request to Mashpee Commons for information. Please submit this information and materials to the Planning Board so that the discussion on the expansion may continue.

Requested information:

1. Master Regulatory Plan as referenced in the Form-based Code book.
2. Visioning plan showing proposed character districts/zones, proposed and existing roads, and traffic controls at Rt 151 and Rt 28.
1. Blank visioning map, in large scale, showing proposed and existing roads, but with no character districts filled-in
2. List of parcels in the proposed expansion, by Assessor's Map and Lot number
1. Plan for vehicle parking lots for each of the residential, commercial, and mixed-use character districts
2. The complete Fiscal Impact Analysis by Connery of Mashpee Common's CH 40B Proposal from 2005
3. Special permits and all modifications issued to Mashpee Commons by the Town to date, including the book and page or document number from the Barnstable County Registry of Deeds and Land Court
4. Minimum and maximum building height allowed in each character district, including the roof
5. Minimum and maximum residential density allowed in each character district
6. Minimum and maximum commercial square footage allowed in each character district
7. Estimated additional waste water flow, allowed concentration of Total Nitrogen, and remaining capacity of current waste water treatment facility.
8. Minimum and maximum Total Nitrogen loading expected from the expansion
9. Environmental Impact Study including but not limited to and specific plans to protect and improve the environmental quality of the Mashpee River, Quashnet River, Waquiot Bay, with special consideration for the current degraded and impaired state of these water bodies.
10. Traffic impact study and plans to mitigate these impacts
11. Stormwater management plan for the expansion and proposal on how the existing drainage system will be incorporated into the expansion drainage.
12. Archeological Sensitivity Study of the expansion area.
13. Identification of all open space, on-site or off-site, connected with the expansion.
14. Identification of any contemporary designs that would be allowed by the proposed Form-based Code
15. Sustainability Analysis of the expansion showing how the expansion balances the environment, equity and the economy of the Town. Address the following items: drinking water, quality of the proposed built living environment, traffic, noise, services and facilities, harmony with nature, place-based economy, equity, and community character with special attention to Mashpee's unique history, her indigenous residents, accessibility, affordable housing, and open space.
16. Status of the construction permitted under the Jobs Whitings CH 40B Comprehensive Permit, and plans to build out additional phases.

17. Book and page of the CH 40B Comprehensive Permit Decision recorded with the Barnstable County Registry of Deeds.
18. Impacts on the Town's emergency and other public services
19. Review and analysis by the Town's Fire Department regarding planned narrow spaces and alley ways.
20. Identification of the locations of proposed parking garages (if any)
21. Identification of areas within the expansion suited for low impact design and permeable pavement

Yours,

Mary Waygan, Chair

Mashpee Planning Board

TOWN OF SANDWICH ZONING BOARD OF APPEALS

COMPREHENSIVE PERMIT UNDER CHAPTER 40B

MAY 4 2021

DECISION

TOWN CLERK
TOWN OF SANDWICH

HABITAT FOR HUMANITY OF CAPE COD, INC.

APR 28 2021

Re: 1 Nauset Street, Sandwich, MA

3 H 36 M R MY
RECEIVED & RECORDED

PETITIONER: Habitat for Humanity of Cape Cod, Inc.

LAND OWNER: Ann Degraw 2005 Living Trust, Ann Swaim, Trustee

LOCATION: 1 Nauset Street, Sandwich, MA

ZONE: Residential 2 (R2) Zoning District

PURPOSE: Comprehensive Permit Per M.G.L. Chapter 40B to construct a single-family house to be sold and restricted as affordable to households earning at or less than 65% of Area Median Income

DATES OF PUBLIC HEARINGS: March 23, 2021; April 13, 2021; April 27, 2021

DISPOSITION: Comprehensive Permit Approved with Conditions

I. COMPREHENSIVE PERMIT DECISION

Pursuant to M.G.L. Chapter 40B and the Massachusetts Department of Housing and Community Development (“DHCD”) Local Initiative Program (“LIP”), the **Sandwich Zoning Board of Appeals** (The “Board”), after public hearings and making findings of fact stated herein, **voted (4-0) to GRANT** a Comprehensive Permit to Habitat for Humanity of Cape Cod, Inc. (“Habitat”) to construct a single family home, for private ownership, to be affordable to households earning at or less than 65% of the Area Median Income (the “Project”) for the initial sales and thereafter to be affordable to households earning at or less than 80% of the Area Median Income, to be constructed at 1 Nauset Street (the “Property”) according to the Site Development Plans listed herein, subject to the following conditions of approval (“Conditions of Approval”).

II. FACTUAL BACKGROUND

Petitioner in this matter is Habitat for Humanity of Cape Cod, Inc. (“Habitat”). The Property is owned by the Ann Degraw 2005 Living Trust, which has agreed to donate it to Habitat for this project.

The site consists of 28,881 square feet of undeveloped land in the R2 Zoning District and is listed as Assessors Map 13, Parcel 10. Habitat proposes to construct a three-bedroom, single-family residence, which houses will be offered for sale to income-eligible purchasers. The house is proposed to be a ranch-style, to offer year-round, one-story living that can also accommodate persons with disabilities.

The minimum lot size in the R2 Zoning District is 60,000 SF. As the site is comprised of a pre-existing non-conforming lot, waivers are not required as to lot size and frontage. The Project application, plans and documents (collectively, the “Site Development Plans”) were received with the application or in the course of the public hearing and are incorporated by reference into this Comprehensive Permit decision (the “Decision”).

III. PROCEDURAL HISTORY

Habitat, with the support of the Sandwich Board of Selectmen and the Sandwich Housing Authority, submitted a LIP application to DHCD for this Project, which received a Project Eligibility Letter from DHCD on August 18, 2020.

Habitat filed its current application for a comprehensive permit with the Board on March 3, 2021. The Board opened the public hearing on March 23, 2021 and April 13, 2021, and the Board voted to approve the project on April 27, 2021.

IV. SUBMITTALS

- A. Application for Comprehensive Permit filed by Habitat dated March 1, 2021 and received by the Town Clerk on March 3, 2021, including:
 1. Completed Comprehensive Permit Application form
 2. Project Narrative, entitled “Scatter-Site Community Housing Project Town of Sandwich,” dated February 22, 2020 and documents included therewith, as listed in the “Table of Attachments” thereto
- B. Town Departments Comments: The Board received various comments from Town departments, boards and commissions in writing as well as verbally. All written comments were read into the record.
- C. Public Comments: The Board received various comments from abutters and members of the public in writing as well as verbally. All written comments were read into the record, and all verbal comments were referenced in the minutes of the Board’s hearings.

V. FINDINGS OF FACT

- A. The proposed development consists of one single-family house on an existing lot to be served by town water service and a private septic system. The property contains 28,881 SF located on the northwest corner of Nauset Street and Spinnaker Street. The land is zoned Residential 2 (R2).
- B. The home will be offered for sale to an income-eligible purchaser selected pursuant to an Affirmative Fair Marketing Plan and are designed as ranch-style for single-story living which can be constructed to accommodate persons with disabilities, if any persons with disabilities are determined to be the initial purchaser. The house will have three bedrooms, one full bathroom, one half bathroom and a full basement.
- C. The houses will be offered for sale to households earning at or less than 65% of Area Median Income. Habitat will also request that DHCD allow the maximum number of units (70% or two houses)¹ to be set aside for Sandwich residents under DHCD's local preference guidelines.
- D. The Town of Sandwich is in need of affordable housing. Currently, only 3.8% of the Town's housing stock is affordable, according to DHCD's December 21, 2020 Subsidized Housing Inventory ("SHI).
- E. The Town is not eligible for and does not assert that it satisfies any statutory minima or qualifies for any safe harbor under 760 CMR 56.03.
- F. The Board finds that the Applicant has complied with all rules and regulations of the Town as they pertain to the application for a Comprehensive Permit.
- G. The Board finds that the Applicant is qualified pursuant to 760 CMR 56.04(1) in that:
 - i) The Applicant is a non-profit corporation, consistent with M.G.L. c. 40B, § 21 and 760 CMR 56.04(1)(a);
 - ii) The Applicant has a funding commitment from a subsidizing agency as evidenced by the Project Eligibility Letter from DHCD (the "Subsidizing Agency") under the Local Initiative Program dated August 18, 2020; and
 - iii) The Applicant has "control of the site" as that term is used M.G.L. c. 40B, § 21 and 760 CMR 56.04(1) and (4) in that it has a legal and/or equitable interests in the Property as demonstrated by a Purchase and Sale Agreement between Habitat and the Trustee of the Ann Degraw 2005 Living Trust, attached as Exhibit C to the Application.

¹ For purposes of the LIP application and the local preference request, this Project is being considered together with another comprehensive permit application for two two-bedroom homes on property located at 167 Cotuit Road.

- I. The Board finds that the Applicant has provided evidence that there exists a regional need for low and moderate income housing. It also finds that the Town, according to the Department of Housing and Community Development (“DHCD”), has not achieved the statutory minima as set forth in M.G.L. c. 40B, §20 and or 760 CMR 56.03(3) in that Subsidized Housing Inventory (“SHI”)-qualified affordable housing does not constitute more than 10% percent of the total number of year round dwelling units in the Town; nor is 1.5% of the Town’s land area dedicated to SHI-qualified affordable housing; nor will the development of the ownership unit consistent with the application result in the commencement of construction of such housing on sites comprising more than three-tenths of one percent of such land area.
- J. The Board finds that the Project, as conditioned herein, is consistent with local needs.

VI. CONDITIONS OF APPROVAL

Based upon the above findings of the Board and testimony and information received into the record during the public hearing process, the Board grants to the Applicant a Comprehensive Permit to construct a single-family house on the Property in accordance with G.L. c. 40B and its implementing regulations 760 CMR. § 56.00, subject to the conditions and limitations set forth herein.

The Comprehensive Permit described herein incorporates the requested relief from local bylaws, zoning bylaws and subdivision control regulations identified herein. Any waiver from the local bylaws, zoning bylaws and subdivision control regulations not expressed granted by this Comprehensive Permit decision are deemed denied. In granting this relief, the Board recognizes that the legal requirements for issuing a comprehensive permit have been met and finds that the Comprehensive Permit is consistent with local needs as defined in G.L. c. 40B, §20.

A. ADMINISTRATIVE

1. This Comprehensive Permit is granted to the Applicant and its non-profit successors and assigns for the purpose of constructing a single-family housing unit, for sale, on Nauset Street in Sandwich as conditioned herein and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12) (b) or any successor regulation. Said construction is to be carried out consistent with the Final Plans as defined herein, including all notes on the Final Plans, and subject to the conditions set forth in this Decision. The Final Plans shall incorporate the approved Site Plans submitted with the Application, which shall be modified as necessary to comply with this Decision, and submitted to the Board. Final As-Built Plans, including Building Plans, shall be submitted to the Building Inspector prior to the issuance of the final certificate of occupancy for each unit.
2. The Board shall have the power, at a public meeting and without further public hearing to modify or amend the terms and conditions of this Comprehensive Permit on the application of the Applicant, or upon its own motion, to correct technical errors

in this Comprehensive Permit, or to address the Applicant's noncompliance with any terms or conditions of this Comprehensive Permit.

3. In the event the Applicant seeks any change in the Comprehensive Permit after this Decision is final, any such change must be presented to the Board for approval and for modification of this decision. Within 20 days the Board shall determine and notify the Applicant whether it deems the change substantial or insubstantial, with reference to the factors set forth at 760 CMR 56.07(4). If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such 20-day period, the Comprehensive Permit shall be deemed modified to incorporate the change. If, during a public meeting, the Board deems a change to be substantial, then the Board shall hold a subsequent public hearing within 30 days of its determination and issue a decision within 40 days of termination of the hearing, at which the Board may approve or disapprove the requested modifications or amendments to this decision, in accordance with the provisions of Mass. Gen. Laws c. 40B, section 21, the provisions of 760 CMR 56.05 (11). The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such substantial change and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. "Substantial Change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 56.07(4). If it deems necessary, the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.
4. All easements and covenants affecting the use of the Property have been identified, and such covenants and easements are identified on the Plan of Record. The Applicant shall submit any written or recorded instruments granting or agreeing to such easements and covenants.
5. Unless substantial construction of the Project has commenced as evidenced by the issuance of a building permit, the Comprehensive Permit shall expire three years from the date the Decision is filed with the Town Clerk, excluding any time required to adjudicate or resolve any appeal. Any requests for an extension of time shall be made in writing no less than thirty days prior to the expiration of the Comprehensive Permit, and such request shall not be unreasonably denied.
6. Following the passage of the appeal period or if an appeal is filed, within thirty (30) days of the final adjudication or resolution of said appeal, the Applicant shall record this Decision at the Barnstable County Registry of Deeds with the plans itemized herein and provide proof of said recording to the Board and Building Inspector. **No building permits will be issued until this condition is satisfied.**
7. Any transfer of the Project shall be in accordance with 760 CMR 56.05(12) (b). Prior to substantial completion of the Project or a phase thereof, a Comprehensive Permit may be transferred to a person or entity other than the Applicant, upon written confirmation from the Subsidizing Agency that the transferee meets the requirements

of 760 CMR56.04(l)(a) and (b), and upon written notice to the Board. Transfer of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4). After substantial completion, a Comprehensive Permit shall be deemed to run with the land and a transfer must be approved by the Board of Appeals after public hearing.

8. The Applicant shall promptly pay the reasonable fees of the Board's consultants for post-permit reviews of the plans or documents described herein and for inspections during the construction phase, as may be deemed necessary or appropriate by the Board.
9. Copies of all required legal documents including, but not limited to the Regulatory Agreement, Affirmative Fair Marketing Plan, and Monitoring Agreement, if a separate Monitoring Agreement is required by the subsidizing agency, and Affordable Housing Deed Restriction, shall be submitted to the Board and Sandwich's Town Counsel for review and comment, **prior to issuance of any certificate of occupancy.**
10. The Applicant shall provide the Board with copies of any and all documents and statements provided by the Applicant to the Subsidizing Agency or its designated auditor of the Applicant's costs and revenues for informational purposes.
11. As a nonprofit corporation, the Applicant's profit shall not exceed what is statutorily allowed for the Project. Any profit in excess of what is statutorily allowed shall be paid in accordance with 760 CMR 56.04(8) (c).
12. The Board or its agent(s) may enter onto and view and inspect the subject Property during regular business hours, with prior written notice, with consent not to be unreasonably denied or delayed and until as-built plans are approved, to ensure compliance with the terms of this Decision, subject to applicable safety requirements. After completion of construction, the Town's inspection officials shall have authority subject to prior written notice, with consent not to be unreasonably denied or delayed to enter the common areas of the Property for purposes of ensuring compliance with the conditions of this Decision and any other applicable permits, regulations, bylaws and statutes.
13. The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.

B. HOUSING

1. This comprehensive permit is issued pursuant to the Applicant's DHCD project eligibility letter dated August 18, 2020, which approved the construction of three scatter site single-family houses, including the single residence on the Property subject to this Comprehensive Permit, to be offered for sale, which shall be restricted as affordable for households earning at or below 80% of the Area Median Income under the Local Initiative Program. In accordance with DHCD's final approval

process, the Applicant shall submit to DHCD for review and final acknowledgement of consistency with this Decision, the Final Plans.

2. The affordable unit shall remain affordable in perpetuity by deed riders in form and substance acceptable to DHCD and the Board for the Project. The affordable unit shall be and shall remain eligible to be included in the Town's Subsidized Housing Inventory, as maintained by DHCD.
3. The Project shall be limited to three bedrooms, and each bedroom shall be presumed to generate 110 gallons of wastewater per day per Title 5.
4. The Project shall not be age restricted.
5. The Applicant shall notify the Board when a building permit is issued for the affordable unit and cooperate with the preparation of request forms to add the affordable unit to the Town's SHI. The Applicant shall notify the Board when an occupancy permit is issued and cooperate with the preparation of request forms to add the unit to the Town's SHI permanently.
6. The Applicant shall provide to the Board a copy of the final executed documents with DHCD.
7. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Barnstable Registry of Deeds prior to issuance of any building permit and signed by all necessary parties, including all mortgagees and lien holders of record.
8. The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Project shall remain 100% affordable so long as the Project does not conform to local zoning; (iii) shall require that the unit in the Project shall be sold to households earning at or below 80% of the Area Median Income; and (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder.
9. The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable unit shall remain affordable in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town Zoning Bylaws or for the longest period allowed by law, whichever period is longer.
10. If and when the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent

allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers.

11. If at any time it appears that the Applicant is in violation of an affordable housing restriction, then the Board may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.

C. PLANS

1. Prior to commencement of construction at the Property ("Site Activities"), the Applicant shall submit its Final Plans to the Board review to determine consistency with this Comprehensive Permit. Such Final Plans shall reflect: (a) the additional plan details and revisions called for under the Conditions set forth herein; (b) any additional changes required by other boards and agencies to comply with state and federal law and any local regulations not waived by this Comprehensive Permit; and (c) any requirements of DHCD upon final approval of the Project.
2. Final Plans. **Within 30 days after the expiration of the appeal period or if an appeal is filed, within 30 days of the adjudication or resolution of said appeal**, the Applicant shall provide the Town with a sufficient number of sets of full-size plans to ZBA, Building Inspector and other Town Departments as deemed necessary by the Building Inspector. In addition, the Applicant shall submit to the Building Inspector one set of reduced copies of the Final Plans, in addition to any recordable plan sheets, as well as a digital copy of the final endorsed plan set prior to the issuance of a building permit.
3. Construction Plans. **Not less than thirty days prior to the anticipated start of construction**, and to the degree that the following plans are not part of the plan set described herein, the Applicant shall submit final construction plans to the Board and Building Department, for purposes of confirming that the construction plans are consistent with the requirements of this Decision. The approval of the Building Department shall not be unreasonably withheld. All site plans shall be stamped by a registered professional engineer. The Board may engage, at the Applicant's expense and upon prior agreement to scope and cost of services, one or more agents to review the plan(s) and make recommendations for approval or disapproval to the degree that a plan or plans are inconsistent with this decision.
4. As-built Plans. **Prior to the issuance of the final certificate of occupancy**, the Applicant shall provide "as-built" plans of the driveway, buildings, water, and electrical distribution systems to the Board of Appeals, Fire Department, Building Department and Highway Department; such plans shall be reviewed by the Board or

its agent for consistency with this decision and shall not be unreasonably withheld. The Applicant shall provide these plans in digital format acceptable to the Town including but not limited to a format compatible with the Town's Geographic Information System (GIS).

5. The digital copy of the final set of approved as-built plans must follow the five requirements listed below unless otherwise required by the Building Department:
 - a) All plans and specifications must be submitted on electronic media (via cloud, flash drive, CD or DVD_ROM) using an IBM-PC or compatible file format). Acceptable file formats include: AutoCAD *.dwg, AutoCAD *.dxf, Arc View *.shp, or ArcGIS Geodatabase *.mdb. The files must be identical to the printed plan and contain all information included on the written plan. Upon project completion a digital submission of the "as-built" plan is required prior to receiving a Certificate of Completion from the Building Department.
 - b) All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83 and vertical datum of NGVD88.
 - c) Each feature type must be organized in the CAD or GIS data structure as a separate layer using logical layer names. For example, there must be separate CAD layers for buildings, roads, parcel lines, and wetlands. Having all these features in a single CAD layer or GIS file will not be accepted.
 - d) Documentation of the data format must be provided with a description of the CAD layers and list of the types of features placed in each layer. Submission of multiple files must also include a list of the files and their purpose.
 - e) The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses and labeled as to their contents.

D. CONSTRUCTION

1. No construction activity shall occur on the Project, and no building permit shall be issued, until the Applicant shall have:
 - a) Executed and recorded the standard form Regulatory Agreement and provided evidence of same to the Board and the Building Inspector. The Regulatory Agreement shall be subject to review and approval, as to form and consistency, with this Decision by Town Counsel prior to execution, such approval not to be unreasonably withheld.
 - b) Submitted to the Board and the Building Inspector a Construction Management Plan (CMP), as well as a Construction Management Schedule (CMS), that generally conforms to industry standard practice and addresses all construction-related conditions specifically set forth in this Decision.

Additional copies of the proposed CMP shall be provided to the Zoning Board of Appeals, Board of Health and Fire Chief.

2. **Prior to Site Activities**, the Applicant shall provide, and update as necessary, to the Board and Building Inspector:
 - a) the company affiliation, name, address and business telephone number including 24-hour contact information of the construction manager who shall have overall responsibility for construction activities on site;
 - b) a copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid;
 - c) certification from the Applicant that all required federal, state and local licenses and permits have been obtained;
 - d) at least 48 hour written notice. If activity on site ceases for longer than thirty days, 48 hour written notice is required prior to restarting work.
3. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, odor, vibration, dust, and blocking of Town Roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Except for emergency work, and/or exceptions approved in advance, there shall be no exterior construction on any Sunday or state or federal legal holiday. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures. Deliveries shall not commence before 7:00 a.m.
4. During construction, at the end of each work day, the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to as-built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Board shall be notified in writing of the final disposition of the materials.
5. No tree stumps or other demolition and construction debris shall be buried on the Property. All tree stumps shall either be ground or removed from the Property. No burning is allowed on the Property.
6. All fire protection systems shall comply with the State Fire Code and State Building Code and any amendments thereto.

7. All staging areas, including without limitation parking areas for construction personnel, portable toilets, temporary work facilities, etc. shall be on the Property. Parking for construction volunteers shall be permitted off site but shall not obstruct traffic on Nauset Street or contiguous streets. **Thirty days following the certificate of occupancy**, construction staging areas shall be cleared and completed in accordance with Final Plans.
8. If construction activity ceases for longer than 30 days, then written notice shall be provided by the Applicant to the Building Inspector at least 48 hours before resuming work. Pursuant to 780 CMR 33 Safeguards during Construction and applicable states, the Building Inspector may require that any foundation, trench, structure, equipment or other hazard be secured as necessary, in his opinion, including but not limited to installation of fencing and/or filling of trenches.
9. If construction is temporarily suspended during the growing season, all exposed areas shall be stabilized by seeding and/or mulching within 14 days of suspension of construction. If construction is temporarily suspended outside the growing season, all exposed areas shall be stabilized by mulching and tack within 14 days of suspension of construction. Slopes steeper than 3:1 shall be stabilized by netting and pinning during suspension of construction.
10. Prior to the commencement of any ground disturbance or construction the Applicant's engineer shall provide to the Town's Engineer a detailed construction sequencing plan and a construction traffic management plan during each phase of the work, which includes requirements relative to any and all appropriate signage and police details during the construction phase.
11. The Applicant shall pay all reasonable fees imposed for the purpose of inspecting and monitoring the compliance of the Project's construction with the terms of this permit, local bylaw requirements not waived by this permit, and other permits and approvals issued with respect to this Project for which the Town has monitoring responsibility. Any outstanding fees owed for consulting services incurred by the Board before this decision was rendered shall be paid forthwith and before any building permit issues. Thereafter, no occupancy permit shall issue if an outstanding fee bill is 30 days overdue.

E. INFRASTRUCTURE

1. All infrastructure of the Project, including without limitation the following, shall be and shall remain forever private and the Town of Sandwich shall not have, now or ever, any legal responsibility for their operation, maintenance, repair, or replacement of:
 - a) The entire on-site stormwater management system and all stormwater and water connections, lines and equipment required from the public way to the Property;

- b) The entire sewage management system and all connections, lines, leach fields and other features;
 - c) The driveway, utilities, drainage systems, water system, fire protection, gas if applicable, electric, telephone, and cable system and all other infrastructure shown on the Final Plans as serving the Project, including but not limited to plowing, sanding, snow removal, trash collection, and landscape maintenance;
 - d) Property lighting, landscaping and screening.
2. All utilities and water connections shall be constructed consistent with the Final Plans and otherwise in accordance with Town of Sandwich requirements except as otherwise shown on the Final Plans.
 3. All utilities within the Project shall be installed underground.
 4. Applicant shall file the nitrogen aggregation plan as required under Title V on lots smaller than otherwise permitted by restricted open space to be used as Credit Land with the Board of Health prior to issuance of a building permit for the first building

5. **GENERAL CONDITIONS**

1. **During construction**, the Applicant, and following the conveyance of the second unit, the Homeowners Association, shall be permanently responsible for the following at the Project:
 - a) all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Final Plans;
 - b) all site maintenance and establishing a regular schedule for site maintenance;
 - c) repairing and maintaining the site driveway, including drainage structures and utilities therein;
 - d) site lighting and landscaping.
2. If any part of this Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.
3. Habitat will not install any outdoor lighting, other than a lamppost at or near the end of the driveway, which shall comply with the Town's bylaws and regulations. Any

outdoor lighting subsequently installed by successive owners shall comply with then-existing Town bylaws and regulations.

4. Lapse. Any comprehensive permit granted hereunder shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12) (c)), unless the comprehensive permit is duly recorded before the three year period elapses and unless construction on the Project has commenced within such period. In addition, construction in accordance with this comprehensive permit shall be completed within three years of the commencement of construction. The Applicant may apply to the Board for reasonable extensions of these deadlines for good cause but shall do so before any lapse occurs.
5. This comprehensive permit shall not be valid until it is duly recorded with the Registry of Deeds and evidence of such recording is provided to the Building Inspector and the Board. Any modification of this comprehensive permit shall be subject to 760 CMR 56 or any successor regulation thereto.
6. Habitat will take all steps necessary to request that DHCD allow the maximum of 70% of the units shall be set aside for residents of Town under DHCD's local preference guidelines.
7. The residential unit shall be occupied by the income-eligible purchasers. The unit may not be rented on a short-term or long-term basis, and such condition shall be included in the affordable housing deed restriction for the unit.

VII. RECORD OF VOTE

On April 27, 2021, the Board voted 4-0 to approve the Waivers requested and listed in Exhibit D to the Application. On April 27, 2021, the Board, by a vote of 4-0 voted to approve this Comprehensive Permit and voted to authorize the Acting Chair to sign this decision on behalf of the Board.

The Board has complied with all statutory requirements for the issuance of this Comprehensive Permit. A copy of this decision will be filed with the Town Clerk. Copies of this decision have been, or will be mailed, to all parties, persons or boards as required by M.G.L. c. 40B.


The grant of this comprehensive permit hereunder is dependent upon compliance with all of the conditions set forth above and upon the following additional terms and conditions.

This Comprehensive Permit Decision shall be a master permit which shall subsume all local permits and approvals normally issued by local boards, as that term is defined in 760 CMR 56.00 et seq., but does not apply to building permits, septic system permits issued under Title V or any permit required under the State Wetlands Protection Act, G.L. c. 131. Upon presentation of this Comprehensive Permit and subsequent more detailed Final Plans as required pursuant to

this Decision and in order to obtain other relevant approvals, together with final approval from DHCD pursuant to 760 CMR 56.04(7), all Local Boards shall take all actions necessary, including but not limited to issuing all necessary permits, approvals, waivers, consents, and affirmative action such as plan endorsements and requests for waivers, after reviewing such plans only to ensure that they are consistent with this Comprehensive Permit (including any waivers or lack of waivers set forth herein), the final approval of the Subsidizing Agency, and in compliance with applicable state and federal laws, regulations, and codes.

Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by M.G.L. c. 40A, § 17 or M.G.L. c. 40B, §20 et seq., as applicable.

Zoning Board of Appeals of the Town of Sandwich



By James J. Killion, Acting Chair

Date: April 27, 2021

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

I hereby certify that this is a true copy of the decision rendered by the Board of Appeals and filed in the office of the Town Clerk on _____, 2021; I further certify that twenty days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Sandwich, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Sandwich Town Clerk

TOWN OF SANDWICH ZONING BOARD OF APPEALS

COMPREHENSIVE PERMIT UNDER CHAPTER 40B


DECISION

HABITAT FOR HUMANITY OF CAPE COD, INC.

Re: 167 Cotuit Road, Sandwich, MA

TOWN CLERK
TOWN OF SANDWICH

APR 28 2021

3 H 36 M P 
RECEIVED & RECORDED

PETITIONER: Habitat for Humanity of Cape Cod, Inc.

LAND OWNER: Cotuit Road Realty Trust, Ann Swaim, Trustee

MAY 4 2021

LOCATION: 167 Cotuit Road, Sandwich, MA

ZONE: Residential 2 (R2) Zoning District

PURPOSE: Comprehensive Permit Per M.G.L. Chapter 40B to construct two single-family houses on separate lots with both units to be sold and restricted as affordable to households earning at or less than 65% of Area Median Income

DATES OF PUBLIC HEARINGS: March 23, 2021; April 13, 2021; April 27, 2021

DISPOSITION: Comprehensive Permit Approved with Conditions

I. COMPREHENSIVE PERMIT DECISION

Pursuant to M.G.L. Chapter 40B and the Massachusetts Department of Housing and Community Development (“DHCD”) Local Initiative Program (“LIP”), the **Sandwich Zoning Board of Appeals** (The “Board”), after public hearings and making findings of fact stated herein, **voted (4-0)** to **GRANT** a Comprehensive Permit to Habitat for Humanity of Cape Cod, Inc. (“Habitat”) to construct two single family homes on separate lots, for private ownership, all to be affordable to households earning at or less than 65% of the Area Median Income (the “Project”) for the initial sales and thereafter to be affordable to households earning at or less than 80% of the Area Median Income, to be constructed at 167 Cotuit Road (the “Property”) according to the Site Development Plans listed herein, subject to the following conditions of approval (“Conditions of Approval”).

II. FACTUAL BACKGROUND

Petitioner in this matter is Habitat for Humanity of Cape Cod, Inc. (“Habitat”). The Property is owned by Cotuit Road Realty Trust, which has agreed to donate it to Habitat for this project.

The site consists of 40,946 square feet of undeveloped land in the R2 Zoning District and is listed as Assessors Map 13, Parcel 7. Habitat proposes to subdivide the Property into two lots, each of which would be improved with a two-bedroom, single-family residence. Both houses will be offered for sale to income-eligible purchasers. Each house is proposed to be a ranch-style, to offer year-round, one-story living that can also accommodate persons with disabilities.

The proposed subdivision roadway is proposed to be a private, common driveway, measuring 18 feet in width for the paved surface. The proposed roadway is a dead-end, that extends beyond the second driveway (adjacent to Lot B). The proposed roadway will not comply with the Sandwich Planning Board’s Rules and Regulations Governing the Subdivision of Land (the “Subdivision Regulations”) and therefore several waivers discussed herein are requested. Habitat proposes that the roadway will remain private and maintenance will be addressed under a homeowner’s association to be formed.

The minimum lot size in the R2 Zoning District is 60,000 SF. Each of the two housing lots will be less than the minimum lot size, and therefore, several waivers are requested as discussed below. Waivers are also requested from minimum lot frontage, front yard setback, and side/rear yard setbacks. The Project application, plans and documents (collectively, the “Site Development Plans”) were received with the application or in the course of the public hearing and are incorporated by reference into this Comprehensive Permit decision (the “Decision”).

III. PROCEDURAL HISTORY

Habitat, with the support of the Sandwich Board of Selectmen and the Sandwich Housing Authority, submitted a LIP application to DHCD for this Project, which received a Project Eligibility Letter from DHCD on August 18, 2020.

Habitat filed its current application for a comprehensive permit with the Board on March 3, 2021. The Board opened the public hearing on March 23, 2021 and April 13, 2021, and the Board voted to approve the project on April 27, 2021.

IV. SUBMITTALS

A. Application for Comprehensive Permit filed by Habitat dated February 22, 2021 and received by the Town Clerk on March 3, 2021, including:

1. Completed Comprehensive Permit Application form
2. Project Narrative, entitled “Scatter-Site Community Housing Project Town of Sandwich,” dated February 22, 2020 and documents included therewith, as listed in the “Table of Attachments” thereto

- B. Supplemental materials: In response to comments by the Board and Town staff, Habitat submitted the following, which were received by the Board on March 24, 2021:
1. Revised Subdivision Plan
 2. Revised Permitting Site Plan
- C. Town Departments Comments: The Board received various comments from Town departments, boards and commissions in writing as well as verbally. All written comments were read into the record.
- D. Public Comments: The Board received various comments from abutters and members of the public in writing as well as verbally. All written comments were read into the record, and all verbal comments were referenced in the minutes of the Board's hearings.

V. FINDINGS OF FACT

- A. The proposed development consists of two single-family houses on two lots served by private wells and septic systems. The property contains 40,946 SF located on the westerly side of Cotuit Road. The land is zoned Residential 2 (R2). The two lots will be accessed via a 18 foot wide subdivision road which will be used as a private common driveway to be maintained by a Homeowners Association. Lot A, which will front on Cotuit Road, will contain 20,376 SF; Lot B will contain 20,372 SF.
- B. The two residential units will be offered for sale to income-eligible purchasers selected pursuant to an Affirmative Fair Marketing Plan and are designed as ranch-styles for single-story living which can be constructed to accommodate persons with disabilities, if any persons with disabilities are determined to be the initial purchasers. Each house will have two bedrooms, one full bathroom and a full basement.
- C. Both houses will be restricted as affordable dwelling units, subject to a deed restriction shall remain in perpetuity. The houses will be offered for sale to households earning at or less than 65% of Area Median Income. Habitat will also request that DHCD allow the maximum number of units (70% or two houses)¹ to be set aside for Sandwich residents under DHCD's local preference guidelines.
- D. The Town of Sandwich is in need of affordable housing. Currently, only 3.8% of the Town's housing stock is affordable, according to DHCD's December 21, 2020 Subsidized Housing Inventory ("SHI).

¹ For purposes of the LIP application and the local preference request, this Project is being considered together with another comprehensive permit application for a single three bedroom home on property located at 1 Nauset Street.

- E. The Town is not eligible for and does not assert that it satisfies any statutory minima or qualifies for any safe harbor under 760 CMR 56.03.
- F. The Board finds that the Applicant has complied with all rules and regulations of the Town as they pertain to the application for a Comprehensive Permit.
- G. The Board finds that the Applicant is qualified pursuant to 760 CMR 56.04(1) in that:
 - i) The Applicant is a non-profit corporation, consistent with M.G.L. c. 40B, § 21 and 760 CMR 56.04(1)(a);
 - ii) The Applicant has a funding commitment from a subsidizing agency as evidenced by the Project Eligibility Letter from DHCD (the “Subsidizing Agency”) under the Local Initiative Program dated August 18, 2020; and
 - iii) The Applicant has "control of the site" as that term is used M.G.L. c. 40B, § 21 and 760 CMR 56.04(1) and (4) in that it has a legal and/or equitable interests in the Property as demonstrated by a Purchase and Sale Agreement between Habitat and the Trustees of the Cotuit Road Realty Trust, attached as Exhibit C to the Application.
- I. The Board finds that the Applicant has provided evidence that there exists a regional need for low and moderate income housing. It also finds that the Town, according to the Department of Housing and Community Development (“DHCD”), has not achieved the statutory minima as set forth in M.G.L. c. 40B, §20 and or 760 CMR 56.03(3) in that Subsidized Housing Inventory (“SHI”)-qualified affordable housing does not constitute more than 10% percent of the total number of year round dwelling units in the Town; nor is 1.5% of the Town’s land area dedicated to SHI-qualified affordable housing; nor will the development of two ownership units consistent with the application result in the commencement of construction of such housing on sites comprising more than three-tenths of one percent of such land area.
- J. The Board finds that the Project, as conditioned herein, is consistent with local needs.

VI. CONDITIONS OF APPROVAL

Based upon the above findings of the Board and testimony and information received into the record during the public hearing process, the Board grants to the Applicant a Comprehensive Permit to construct two single-family houses on the Property in accordance with G.L. c. 40B and its implementing regulations 760 CMR. § 56.00, subject to the conditions and limitations set forth herein.

The Comprehensive Permit described herein incorporates the requested relief from local bylaws, zoning bylaws and subdivision control regulations identified herein. Any waiver from the local bylaws, zoning bylaws and subdivision control regulations not expressed granted by this Comprehensive Permit decision are deemed denied. In granting this relief, the Board recognizes that the legal requirements for issuing a comprehensive permit have been met and

finds that the Comprehensive Permit is consistent with local needs as defined in G.L. c. 40B, §20.

A. ADMINISTRATIVE

1. This Comprehensive Permit is granted to the Applicant and its non-profit successors and assigns for the purpose of constructing two single-family housing units, for sale, off Cotuit Road in Sandwich as conditioned herein and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12) (b) or any successor regulation., provided, however, that the pledging of the property as security under any conventional construction loan financing terms, as set forth in the financing entity's loan documents, or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph. Said construction is to be carried out consistent with the Final Plans as defined herein, including all notes on the Final Plans, and subject to the conditions set forth in this Decision. The Final Plans shall incorporate the approved Site Plans listed in Section IV above, including the revisions received by the Board on March 24, 2021, which shall be modified as necessary to comply with this Decision, and submitted to the Board. Final As-Built Plans, including Building Plans, shall be submitted to the Building Inspector prior to the issuance of the final certificate of occupancy for each unit.

2. The Board shall have the power, at a public meeting and without further public hearing to modify or amend the terms and conditions of this Comprehensive Permit on the application of the Applicant, or upon its own motion, to correct technical errors in this Comprehensive Permit, or to address the Applicant's noncompliance with any terms or conditions of this Comprehensive Permit.

3. In the event the Applicant seeks any change in the Comprehensive Permit after this Decision is final, any such change must be presented to the Board for approval and for modification of this decision. Within 20 days the Board shall determine and notify the Applicant whether it deems the change substantial or insubstantial, with reference to the factors set forth at 760 CMR 56.07(4). If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such 20-day period, the Comprehensive Permit shall be deemed modified to incorporate the change. If, during a public meeting, the Board deems a change to be substantial, then the Board shall hold a subsequent public hearing within 30 days of its determination and issue a decision within 40 days of termination of the hearing, at which the Board may approve or disapprove the requested modifications or amendments to this decision, in accordance with the provisions of Mass. Gen. Laws c. 40B, section 21, the provisions of 760 CMR 56.05 (11). The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such substantial change and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. "Substantial Change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 56.07(4). If it deems necessary, the

Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.

4. All easements and covenants affecting the use of the Property have been identified, and such covenants and easements are identified on the Plan of Record. The Applicant shall submit any written or recorded instruments granting or agreeing to such easements and covenants.
5. Unless substantial construction of the Project has commenced as evidenced by the issuance of a building permit, the Comprehensive Permit shall expire three years from the date the Decision is filed with the Town Clerk, excluding any time required to adjudicate or resolve any appeal. Any requests for an extension of time shall be made in writing no less than thirty days prior to the expiration of the Comprehensive Permit, and such request shall not be unreasonably denied.
6. This decision will be deemed to be final upon the later of the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal. Following the passage of the appeal period or if an appeal is filed, within thirty (30) days of the final adjudication or resolution of said appeal, the Applicant shall record this Decision at the Barnstable County Registry of Deeds with the plans itemized herein and provide proof of said recording to the Board and Building Inspector. **No building permits will be issued until this condition is satisfied.**
7. Any transfer of the Project shall be in accordance with 760 CMR 56.05(12) (b). Prior to substantial completion of the Project or a phase thereof, a Comprehensive Permit may be transferred to a person or entity other than the Applicant, upon written confirmation from the Subsidizing Agency that the transferee meets the requirements of 760 CMR 56.04(1)(a) and (b), and upon written notice to the Board. Transfer of a permit shall not, by itself, constitute a substantial change pursuant to 760 CMR 56.07(4). After substantial completion, a Comprehensive Permit shall be deemed to run with the land and a transfer must be approved by the Board of Appeals after public hearing.
8. The Applicant shall, upon request, promptly pay the reasonable fees of the Board's consultants for post-permit reviews of the plans or documents described herein and for inspections during the construction phase, as may be deemed necessary or appropriate by the Board.
9. Copies of all required legal documents including, but not limited to the Regulatory Agreement, Affirmative Fair Marketing Plan, and Monitoring Agreement, if a separate Monitoring Agreement is required by the subsidizing agency, and Affordable Housing Deed Restriction, shall be submitted to the Board and Sandwich's Town Counsel for review and comment, **prior to issuance of any certificate of occupancy.**

10. The Applicant shall provide the Board with copies of any and all documents and statements provided by the Applicant to the Subsidizing Agency or its designated auditor of the Applicant's costs and revenues for informational purposes.
11. As a nonprofit corporation, the Applicant's profit shall not exceed what is statutorily allowed for the Project. Any profit in excess of what is statutorily allowed shall be paid in accordance with 760 CMR 56.04(8) (c).
12. The Board or its agent(s) may enter onto and view and inspect the subject Property during regular business hours, with prior written notice, with consent not to be unreasonably denied or delayed and until as-built plans are approved, to ensure compliance with the terms of this Decision, subject to applicable safety requirements. After completion of construction, the Town's inspection officials shall have authority subject to prior written notice, with consent not to be unreasonably denied or delayed to enter the common areas of the Property for purposes of ensuring compliance with the conditions of this Decision and any other applicable permits, regulations, bylaws and statutes.
13. The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
14. Project surety in the form of a covenant shall be held by the Town Treasurer until the Treasurer is notified by the Board to release the covenant. The covenant shall secure the completion of the access roadway and related infrastructure as determined by the Board's engineer or designated consultant. The covenant shall be provided prior to the issuance of the first building permit. The covenant shall be fully released upon the completion of the covered work.

B. HOUSING

1. This comprehensive permit is issued pursuant to the Applicant's DHCD project eligibility letter dated August 18, 2020, which approved the construction of three scatter site single-family houses, including the two houses on the Property subject to this Comprehensive Permit, to be offered for sale, of which one hundred percent (100%) of such units shall be restricted as affordable for households earning at or below 80% of the Area Median Income under the Local Initiative Program. In accordance with DHCD's final approval process, the Applicant shall submit to DHCD for review and final acknowledgement of consistency with this Decision, the Final Plans.
2. The affordable units shall remain affordable in perpetuity by deed riders in form and substance acceptable to DHCD and the Board for the Project. The affordable units shall be and shall remain eligible to be included in the Town's Subsidized Housing Inventory, as maintained by DHCD.

3. The Project shall be limited to four bedrooms, with each residential unit containing two bedrooms, and each bedroom shall be presumed to generate 110 gallons of wastewater per day per Title 5.
4. The Project shall not be age restricted.
5. The Applicant shall notify the Board when building permits are issued for affordable units and cooperate with the preparation of request forms to add the affordable units to the Town's SHI. The Applicant shall notify the Board when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the Town's SHI permanently.
6. The Applicant shall provide to the Board a copy of the final executed documents with DHCD.
7. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Barnstable Registry of Deeds prior to issuance of any building permit and signed by all necessary parties, including all mortgagees and lien holders of record.
8. The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Project shall remain 100% affordable so long as the Project does not conform to local zoning; (iii) shall require that 100% of the units in the Project shall be sold to households earning at or below 80% of the Area Median Income; and (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder.
9. The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable units shall remain affordable in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town Zoning Bylaws or for the longest period allowed by law, whichever period is longer.
10. If and when the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers.

11. If at any time it appears that the Applicant is in violation of an affordable housing restriction, then the Board may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.
12. Prior to the conveyance of the any units within this development, Habitat shall provide the Board with a revised set of Homeowners Association documents, which shall be subject to the review and approval of Town Counsel.

C. PLANS

1. Prior to commencement of construction at the Property ("Site Activities"), the Applicant shall submit its Final Plans to the Board review to determine consistency with this Comprehensive Permit. Such Final Plans shall reflect: (a) the additional plan details and revisions called for under the Conditions set forth herein; (b) any additional changes required by other boards and agencies to comply with state and federal law and any local regulations not waived by this Comprehensive Permit; and (c) any requirements of DHCD upon final approval of the Project.
2. **Final Plans. Within 30 days after the expiration of the appeal period or if an appeal is filed, within 30 days of the adjudication or resolution of said appeal,** the Applicant shall provide the Town with a sufficient number of sets of full-size plans to ZBA, Building Inspector and other Town Departments as deemed necessary by the Building Inspector. In addition, the Applicant shall submit to the Building Inspector one set of reduced copies of the Final Plans, in addition to any recordable plan sheets, as well as a digital copy of the final endorsed plan set prior to the issuance of a building permit.
3. **Construction Plans. Not less than thirty days prior to the anticipated start of construction,** and to the degree that the following plans are not part of the plan set described herein, the Applicant shall submit final construction plans to the Board and Building Department, for purposes of confirming that the construction plans are consistent with the requirements of this Decision. The approval of the Building Department shall not be unreasonably withheld. All site plans shall be stamped by a registered professional engineer. The Board may engage, at the Applicant's expense and upon prior agreement to scope and cost of services, one or more agents to review the plan(s) and make recommendations for approval or disapproval to the degree that a plan or plans are inconsistent with this decision.
4. **As-built Plans. Prior to the issuance of the final certificate of occupancy,** the Applicant shall provide "as-built" plans of the roads, buildings, water, and electrical distribution systems to the Board of Appeals, Fire Department, Building Department and Highway Department; such plans shall be reviewed by the Board or its agent for consistency with this decision and shall not be unreasonably withheld. The Applicant shall provide these plans in digital format acceptable to the Town including but not limited to a format compatible with the Town's Geographic Information System (GIS).

5. The digital copy of the final set of approved as-built plans must follow the five requirements listed below unless otherwise required by the Building Department:
 - a) All plans and specifications must be submitted on electronic media (via cloud, flash drive, CD or DVD_ROM) using an IBM-PC or compatible file format). Acceptable file formats include: AutoCAD *.dwg, AutoCAD *.dxf, Arc View *.shp, or ArcGIS Geodatabase *.mdb. The files must be identical to the printed plan and contain all information included on the written plan. Upon project completion a digital submission of the "as-built" plan is required prior to receiving a Certificate of Completion from the Building Department.
 - b) All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83 and vertical datum of NGVD88.
 - c) Each feature type must be organized in the CAD or GIS data structure as a separate layer using logical layer names. For example, there must be separate CAD layers for buildings, roads, parcel lines, and wetlands. Having all these features in a single CAD layer or GIS file will not be accepted.
 - d) Documentation of the data format must be provided with a description of the CAD layers and list of the types of features placed in each layer. Submission of multiple files must also include a list of the files and their purpose.
 - e) The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses and labeled as to their contents.

D. CONSTRUCTION

1. No construction activity shall occur on the Project, and no building permit shall be issued, until the Applicant shall have:
 - a) Executed and recorded the standard form Regulatory Agreement and provided evidence of same to the Board and the Building Inspector. The Regulatory Agreement shall be subject to review and approval, as to form and consistency, with this Decision by Town Counsel prior to execution, such approval not to be unreasonably withheld.
 - b) Submitted to the Board and the Building Inspector a Construction Management Plan (CMP), as well as a Construction Management Schedule (CMS), that generally conforms to industry standard practice and addresses all construction-related conditions specifically set forth in this Decision. Additional copies of the proposed CMP shall be provided to the Zoning Board of Appeals, Board of Health and Fire Chief.

- c) Provide procedures to the Building Inspector and Director of Public Works that outline the specific operation and maintenance measures for all stormwater/drainage facilities.
2. **Prior to Site Activities**, the Applicant shall provide, and update as necessary, to the Board and Building Inspector:
- a) the company affiliation, name, address and business telephone number including 24-hour contact information of the construction manager who shall have overall responsibility for construction activities on site;
 - b) a copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid;
 - c) certification from the Applicant that all required federal, state and local licenses and permits have been obtained;
 - d) proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services to protect and secure the site and construction personnel (if determined necessary by the Fire Department and/or Police Department); and
 - e) at least 48 hour written notice. If activity on site ceases for longer than thirty days, 48 hour written notice is required prior to restarting work.
3. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, odor, vibration, dust, and blocking of Town Roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Except for emergency work, and/or exceptions approved in advance, there shall be no exterior construction on any Sunday or state or federal legal holiday. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures. Deliveries shall not commence before 7:00 a.m.
4. During construction, at the end of each work day, the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to as-built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Board shall be notified in writing of the final disposition of the materials.

5. No tree stumps or other demolition and construction debris shall be buried on the Property. All tree stumps shall either be ground or removed from the Property. No burning is allowed on the Property.
6. All fire protection systems shall comply with the State Fire Code and State Building Code and any amendments thereto.
7. All staging areas, including without limitation parking areas for construction personnel, portable toilets, temporary work facilities, etc. shall be on the Property. Parking for construction volunteers shall be permitted off site but not on Cotuit Road. **Thirty days following the certificate of occupancy**, construction staging areas shall be cleared and completed in accordance with Final Plans.
8. If construction activity ceases for longer than 30 days, then written notice shall be provided by the Applicant to the Building Inspector at least 48 hours before resuming work. Pursuant to 780 CMR 33 Safeguards during Construction and applicable states, the Building Inspector may require that any foundation, trench, structure, equipment or other hazard be secured as necessary, in his opinion, including but not limited to installation of fencing and/or filling of trenches.
9. If construction is temporarily suspended during the growing season, all exposed areas shall be stabilized by seeding and/or mulching within 14 days of suspension of construction. If construction is temporarily suspended outside the growing season, all exposed areas shall be stabilized by mulching and tack within 14 days of suspension of construction. Slopes steeper than 3:1 shall be stabilized by netting and pinning during suspension of construction.
10. Prior to the commencement of any ground disturbance or construction the Applicant's engineer shall provide to the Town's Engineer a detailed construction sequencing plan and a construction traffic management plan during each phase of the work, which includes requirements relative to any and all appropriate signage and police details during the construction phase.
11. The Applicant shall pay all reasonable fees imposed for the purpose of inspecting and monitoring the compliance of the Project's construction with the terms of this permit, local bylaw requirements not waived by this permit, and other permits and approvals issued with respect to this Project for which the Town has monitoring responsibility. Any outstanding fees owed for consulting services incurred by the Board before this decision was rendered shall be paid forthwith and before any building permit issues. Thereafter, no occupancy permit shall issue if an outstanding fee bill is 30 days overdue.

E. INFRASTRUCTURE

1. All infrastructure of the Project, including without limitation the following, shall be and shall remain forever private and the Town of Sandwich shall not have, now or

ever, any legal responsibility for their operation, maintenance, repair, or replacement of:

- a) The entire on-site stormwater management system and all stormwater and water connections, lines and equipment required from the public way to the Property;
 - b) The entire sewage management system and all connections, lines, leach fields and other features;
 - c) The driveways, roads, utilities, drainage systems, water system, fire protection, gas if applicable, electric, telephone, and cable system and all other infrastructure shown on the Final Plans as serving the Project, including but not limited to plowing, sanding, snow removal, trash collection, and landscape maintenance;
 - d) Property lighting, landscaping and screening.
2. Applicant shall open and provide \$500 towards funding a roadway and open space maintenance fund to be transferred to and controlled by the Homeowner's Association upon issuance of the final certificate of occupancy for this development. Said roadway and open space maintenance fund shall be incorporated into the Homeowner's Association documents.
 3. All utilities and water connections shall be constructed consistent with the Final Plans and otherwise in accordance with Town of Sandwich requirements except as otherwise shown on the Final Plans.
 4. All utilities within the Project shall be installed underground.
 5. Applicant shall provide an Operations and Maintenance plan for all septic systems and drainage systems.
 6. Applicant shall file the nitrogen aggregation plan as required under Title V on lots smaller than otherwise permitted by restricted open space to be used as Credit Land with the Board of Health prior to issuance of a building permit for the first building.

F. STORMWATER MANAGEMENT

1. The Applicant shall comply with the stormwater management plans shown on the Final Plans.
2. Snow shall not be placed within or above the stormwater management systems.

G. GENERAL CONDITIONS

1. The Homeowners Association documents shall restrict the use of fertilizers, road salt,

and other potential contaminants to protect against contamination of surrounding residential wells.

2. **During construction of the units**, the Applicant, and following the conveyance of the second unit, the Homeowners Association, shall be permanently responsible for the following at the Project:
 - a) all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Final Plans;
 - b) all site maintenance and establishing a regular schedule for site maintenance;
 - c) repairing and maintaining all on-site ways, including drainage structures and utilities therein;
 - d) conducting annual inspection, maintenance and cleaning of all elements of the drainage system, including but not limited to catch basins, drain manholes, detention basins, swales and pipelines; and
 - e) site lighting and landscaping.
3. No stumps or construction debris shall be buried or disposed of at the Property.
4. If any part of this Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.
5. Habitat will not install any outdoor lighting, other than a lamppost at or near the end of each driveway for each of the two lots, which shall comply with the Town's bylaws and regulations. Any outdoor lighting subsequently installed by successive owners shall comply with then-existing Town bylaws and regulations.
6. Lapse. Any comprehensive permit granted hereunder shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12) (c)), unless the comprehensive permit is duly recorded before the three year period elapses and unless construction on the Project has commenced within such period. In addition, construction in accordance with this comprehensive permit shall be completed within three years of the commencement of construction. The Applicant may apply to the Board for reasonable extensions of these deadlines for good cause but shall do so before any lapse occurs.
7. This comprehensive permit shall not be valid until it is duly recorded with the Registry of Deeds and evidence of such recording is provided to the Building Inspector and the

Board. Any modification of this comprehensive permit shall be subject to 760 CMR 56 or any successor regulation thereto.

8. Habitat will take all steps necessary to request that DHCD allow the maximum of 70% of the units shall be set aside for residents of Town under DHCD's local preference guidelines.
9. All residential units shall be occupied by the income-eligible purchasers. No units may be rented on a short-term or long-term basis, and such condition shall be included in the affordable housing deed restriction for each unit.
10. Applicant agrees to comply with the inspection requirements of the Planning Board's Subdivision Rules and Regulations pertaining to the construction of the access way/private driveway.
11. Applicant agrees the emergency turn-around area at the end of the hammerhead road will be kept clear and no parking or snow storage will be allowed. The Homeowners Association documents shall include this no parking restriction and each deed to the individual lots shall include a restriction that there shall be no parking or snow storage allowed in the hammerhead turn-around area in order to keep this area clear for emergency vehicles.

VII. RECORD OF VOTE

On April 27, 2021, the Board voted 4-0 to approve the Waivers requested and listed in Exhibit D to the Application. On April 27, 2021, the Board, by a vote of 4-0 voted to approve this Comprehensive Permit and voted to authorize the Acting Chair to sign this decision on behalf of the Board.

The Board has complied with all statutory requirements for the issuance of this Comprehensive Permit. A copy of this decision will be filed with the Town Clerk. Copies of this decision have been, or will be mailed, to all parties, persons or boards as required by M.G.L. c. 40B.

The grant of this comprehensive permit hereunder is dependent upon compliance with all of the conditions set forth above and upon the following additional terms and conditions.

This Comprehensive Permit Decision shall be a master permit which shall subsume all local permits and approvals normally issued by local boards, as that term is defined in 760 CMR 56.00 et seq., but does not apply to building permits, septic system permits issued under Title V or any permit required under the State Wetlands Protection Act, G.L. c. 131. Upon presentation of this Comprehensive Permit and subsequent more detailed Final Plans as required pursuant to this Decision and in order to obtain other relevant approvals, together with final approval from DHCD pursuant to 760 CMR 56.04(7), all Local Boards shall take all actions necessary, including but not limited to issuing all necessary permits, approvals, waivers, consents, and

affirmative action such as plan endorsements and requests for waivers, after reviewing such plans only to ensure that they are consistent with this Comprehensive Permit (including any waivers or lack of waivers set forth herein), the final approval of the Subsidizing Agency, and in compliance with applicable state and federal laws, regulations, and codes.

Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by M.G.L. c. 40A, § 17 or M.G.L. c. 40B, §20 et seq., as applicable.

Zoning Board of Appeals of the Town of Sandwich



By James J. Killion, Acting Chair

Date: April 27, 2021

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

I hereby certify that this is a true copy of the decision rendered by the Board of Appeals and filed in the office of the Town Clerk on _____, 2021; I further certify that twenty days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Sandwich, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Sandwich Town Clerk



MAY 4 2021

CERTIFICATE OF APPROVAL

TOWN CLERK
TOWN OF SANDWICH

Petition #: 21-09
Applicant/Owner: Cape Cod BMX / Town of Sandwich
Property Address: 71 Quaker Meeting House Road
Map, Parcel: 17-134,137,138

APR 28 2021
3 H 36 M P.M.
RECEIVED & RECORDED

On April 27, 2021 the Zoning Board of Appeals voted to grant a Special Permit under Sections 1330, 4150 & 4200 of the Sandwich Protective Zoning By-Laws for the purpose of constructing and operating a BMX facility on property located at 71 Quaker Meeting House Road, Sandwich as shown on Assessor's Map 17, Parcels 134,137 &138.

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

4/28/2021
Date

PROCEDURAL HISTORY

1. On March 23, 2021 a special permit application was filed under sections 1330, 4150 & 4200 for the purpose of constructing and operating a BMX facility on property located at 71 Quaker Meeting House Road, Sandwich as shown on Assessor's Map 17, Parcels 134,137 &138.
2. After proper notice was given the public hearing was opened on April 13, 2021 and closed on April 27, 2021.
3. The application was accompanied by a plan entitled:
Proposed Bicycle Motocross Facility
In Sandwich Massachusetts
Prepared for:
Cape Cod BMX
Dated: March 23, 2021
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 hearings:

James Killion
Christopher Neeven*
Robert Jensen
Gerry Nye

*Board member missed no more than one meeting and listened to a full audio recording of the Public Hearing at which he was not present, which allows for participation in the deliberation of a Decision under General Law c. 39.

FINDINGS:

The Zoning Board of Appeals makes the following findings with respect to the applicant submissions and testimony at the public hearing:

1. The Board of Appeals finds that this application meets the requirements of Section 9, M.G.L. Chapter 40A.
2. The Board of Appeals finds that the subject property lies within the B2 zoning district.
3. The Board of Appeals finds that the subject property consists of approximately 56 acres.
4. The Board of Appeals finds that Cape Cod BMX is a non-profit organization.
5. The Board of Appeals finds that the property is owned by the Town of Sandwich and a License Agreement has been issued.
6. The Zoning Board of Appeals makes the following findings with respect to 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 not be satisfied
7. The Board of Appeals finds that the proposed BMX facility fits the Zoning By-Law definition of an "Outdoor Recreation Facility" as a small-scale community recreation and sports fields or facilities allowed by special permit under section 4150.
 8. The Board of Appeals considered the special permit criteria of section 4150 of the Protective Zoning By-Law applicable to an Outdoor Recreation Facility and finds that the criteria in a-f are met.
 9. The Board of Appeals finds that the applicant is moving 7000 cubic yards of dirt from Joint Base Cape Cod to the project location for the purpose of constructing the track.
 10. The Board finds that review of the fill by town departments meet the criteria of section 4200.
 11. Exterior lighting meets the requirements of Section 3470.
 12. Proposed operation is from April through December.
 13. The Board of Appeals considered the special permit criteria of section 4200 and finds that the criteria are met.
 14. The Board finds that the site access meets the requirements of the SFD.
 15. The Board of Appeals finds that the applicant is required through the license agreement to provide the Town with \$10,000 for decommissioning.
 16. The Board of Appeals finds that all operations and maintenance of the facility is solely the responsibility of the applicant.

Motion: I, Robert Jensen, move to adopt these findings as the findings of the Board of Appeals.

Second: Christopher Neeven

| | | |
|-------|--------------------|-----|
| Vote: | James Killion | Yes |
| | Christopher Neeven | Yes |
| | Robert Jensen | Yes |
| | Gerry Nye | Yes |

CONDITIONS of APPROVAL FOR GRANT OF SPECIAL PERMIT:

At the public hearing, the Zoning Board of Appeals considered potential conditions of approval for this special permit. The Zoning Board of Appeals voted that the following

conditions of approval shall be imposed upon the special permit approval 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 twelve (12) months of special permit approval, excluding such time required to pursue or await the determination of an appeal referred to in MGL C 40A, Section 17.
3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Planning Office.
4. Lighting is permitted only between dusk and 10 p.m.
5. The season shall be defined as April 1 – November 30.
6. Hours of operation are as follows: 5 days per week/9 a.m. – 10 p.m.
7. All parking must be screened from abutters as defined in Section 3540 of the Protective Zoning By-Law.
8. Spectator seats shall not exceed one hundred.
9. The proposed BMX track must be constructed in accordance with the site plan entitled: Proposed Bicycle Motocross Facility in Sandwich Massachusetts Prepared for Cape Cod BMX March 23, 2021
10. Any change, extension or alteration may not be implemented without prior approval of the Zoning Board of Appeals.
11. The applicant shall provide an annual report by April 1st confirming that the facility has been inspected and maintained in accordance with the site plan dated March 23, 2021.
12. The applicant shall provide the Town with a key to inspect the facility at any time.
13. The existing gravel access road entering the site and the existing Town gravel parking lot shall be kept in good condition and any deficiencies resulting from Cape Cod BMX traffic shall be repaired promptly.
14. The Operation and Management Plan must be modified to clearly state that all O&M activities will be performed by the applicant.
15. Engineering Dept. shall stake the location of the track and the site, but shall not provide a survey. The layout marked and clearing areas will be inspected and approved by Natural Resources, Recreation and Public Works Directors.
16. Applicant shall submit a lighting plan prior to construction.

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

Second: Christopher Neeven

| | | |
|-------|--------------------|-----|
| Vote: | James Killion | Yes |
| | Christopher Neeven | Yes |
| | Robert Jensen | Yes |
| | Gerry Nye | 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 the purpose of constructing and operating a BMX facility on property located at 71 Quaker Meeting House Road, Sandwich as shown on Assessor's Map 17, Parcels 134,137 &138.

Motion: I, Robert Jensen, move to approve the Special Permit in consideration of the findings of the Zoning Board of Appeals and subject to the conditions as stated herein.

Second: Christopher Neeven

| | | |
|-------|--------------------|-----|
| Vote: | James Killion | Yes |
| | Christopher Neeven | Yes |
| | Robert Jensen | Yes |
| | Gerry Nye | Yes |

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Planning Board

16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
E-mail: planning@sandwichmass.org

TOWN CLERK
TOWN OF SANDWICH

MAY 07 2021

J H 20 M P M S
RECEIVED & RECORDED

Large Scale Ground Mounted Solar Photovoltaic Special Permit Certificate of Approval

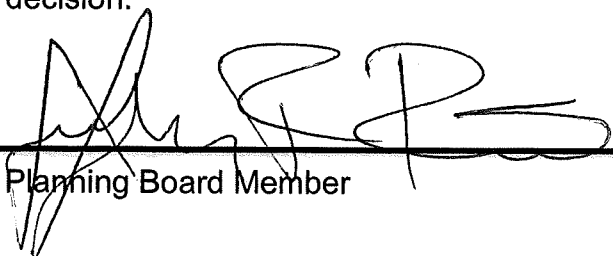
Property Address: 9 Victory Drive, 0 Kiahs Way and 144 Kiahs Way, Sandwich
MA 02563
Name of Applicant: LSE Ophiuchus LLC
Property Owner: Housing Assistance Corporation of Cape Cod

On May 5, 2021 the Planning Board voted to grant a special permit to LSE Ophiuchus LLC for property located at 9 Victory Drive, 0 Kiahs Way and 144 Kiahs Way, as shown on Assessor's Map 28, Parcel 41, 42 & 48 Sandwich, MA to allow a large scale ground-mounted solar photovoltaic installation.

The Planning Board certifies that the decision attached hereto is a true and correct copy of its decision to grant a special permit and that copies of said decision have been filed with the Planning Board and the Town Clerk.

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

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



Planning Board Member

5/7/2021

Date

PROCEDURAL HISTORY

1. An application was filed on July 23, 2020 by LSE Ophiuchus LLC for a special permit to install a Solar Photovoltaic ground mounted system greater than 250 kW under Sandwich Protective Zoning By-law Section 4180 for property located at 9 Victory Drive, 0 Kiah's Way and 144 Kiah's Way, Sandwich, MA.
2. On July 24, 2020 the Sandwich Building Commissioner referred the project to the Cape Cod Commission for a Development of Regional Impact review.
3. On March 11, 2021 the Cape Cod Commission approved the project with conditions.
4. After proper notice was given the public hearing was opened on May 5, 2021 and closed on May 5, 2021.
5. The application was accompanied by Site Development Plans entitled:
Victory Drive Solar,
9 Victory Drive, 0 & 144 Kiah's Way
Sandwich, MA 02563
Dated 2/06/20
6. The Board reviewed the application, the plan and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
7. The following members attended the public hearing and are eligible to vote on the decision:

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

FINDINGS

1. The application meets requirements for of Section 9, MGL c. 40A.
2. The applicant is proposing to install a 2.125 MW AC solar photovoltaic array with battery storage.
3. The subject property lies within the R2 and Flex zoning districts.
4. The subject property consists of 3 parcels totaling 46.1 +/- acres with approx. 111.87 feet of frontage on Victory Drive.
5. The application was referred to the Cape Cod Commission as it met the threshold for a Development of Regional Impact (DRI) review. The Commission approved the project with conditions on March 11, 2021.
6. The Planning Board makes the following findings with respect to Section 1330 requirements:
 - a. The Planning Board does not find that there are conditions peculiar to this case but not generally true for similar permitted uses on other sites in the same district

- b. The Planning Board finds that nuisance, hazard or congestion will not be created
 - c. The Planning Board finds that there will not be substantial harm to the neighborhood
 - d. The Planning Board finds that there is no derogation from the intent of the bylaw such that the districts' objectives will not be satisfied
7. The application for special permit substantially conforms to Section 4180 of the Zoning By-Laws.
 8. All components of Section 4186 have been included with the application to the satisfaction of the Planning Board; however, this does not preclude the Building Commissioner from requiring more detailed documentation before issuing a building permit.
 9. The project will consist of approx. 12 acres of solar panels within a 13.8 acre fenced area.
 10. Approx. 11 acres of forest will be cleared and grubbed, with an additional 4 acres to be converted to transition habitat.
 11. All disturbed areas will be seeded with a pollinator seed mix to stabilize soils.
 12. The site will be accessed via a new driveway at the end of Victory Drive.

Motion: I, Robert King, move to adopt these findings as the findings of the Planning Board.

Second: Jennifer Reisig

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| Vote: Jeffrey Picard | Yes |
| Robert King | Yes |
| James Kalweit | Yes |
| Jennifer Reisig | Yes |
| David Darling | Yes |
| Mark Callahan | Yes |

CONDITIONS

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

1. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit, or
 - If no substantial construction or occupancy takes place within (12) twelve months of special permit approval, excluding such time required to pursue

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

2. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Planning Board.
4. All documents submitted pursuant to Section 4186 of the zoning by-law shall be revised to the satisfaction of the Building Commissioner prior to receiving a Building Permit
5. Per Section 2600 (m) the applicant must maintain a rear and side yard setback of 100 feet.
6. Construction hours shall be defined as 8 a.m. - 5 p.m. Monday-Friday. Construction on a Saturday shall be prohibited unless expressly authorized by the Building Commissioner.
7. Noise shall not exceed the standard cited in 310 CMR 7.10.
8. All fences shall be maintained in good condition.
9. Vegetative cover shall be reestablished within one year of substantial completion of the project to the satisfaction of the Building Department in consultation with Engineering Department.
10. A driveway permit through the Engineering Dept. is required for any alterations of the existing driveway.
11. Erosion controls including a construction entrance, geotextile silt fence and construction sequencing are included on the plan. These should be properly implemented prior to site disturbance and maintained until final site stabilization is achieved. Erosion controls such as silt sack catch basin inserts will be required to protect down slope drainage on Victory Drive. Once final site stabilization is achieved the Contractor shall remove and properly dispose of silt sacks, accumulated sediment, and other erosion controls. All of these items must be included on the plan.
12. The Operations and Management Plan will be updated to include specific procedures such as annual spring inspection, repair of eroded areas, and re-grading to maintain design grades and proper drainage.
13. A long-term Stormwater Operations & Maintenance Plan for the proposed Infiltration Basin at Design Point 3 shall be provided and noted in the Stormwater Report Section J.
14. Existing silty soils beneath the proposed infiltration basin should be removed to connect with underlying sands and gravel. Replacement materials should consist of washed sands and gravel free from organics, fines, debris and other unsuitable materials.
15. The panels are to be cleaned with water only. Any deviation from water will require the approval of the Planning Board.
16. No pesticides or chemicals of any kind are permitted.
17. Prior to the issuance of a building permit, the applicant shall stake the 100 ft. buffer and submit a certified survey, ensuring compliance with the 100 ft. buffer,

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

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

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

- Site Development Plans entitled: Victory Drive Solar, 9 Victory Drive, 0 & 144 Kiah's Way Sandwich, MA 02563 Dated 2/06/20
- Appendix 7 Victory Drive Solar Emergency Response Plan
- Appendix 8 Operations and Maintenance Plan (including conditioned updates)
- Appendix 10 Decommissioning Estimate
- Appendix 19 Stormwater Report (including conditioned updates)

20. Evergreen buffer shall carry the length of the property along the residential sides.

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

Second: Jennifer Reisig

| | |
|----------------------|-----|
| Vote: Jeffrey Picard | Yes |
| Robert King | Yes |
| James Kalweit | Yes |
| Jennifer Reisig | Yes |
| David Darling | Yes |
| Mark Callahan | 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 to install a Solar Photovoltaic ground mounted system greater than 250 kW under Sandwich Protective Zoning By-law Section 4180 for property located at 9 Victory Drive, 0 Kiah's Way and 144 Kiah's Way, Sandwich, MA.

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

Second: David Darling

| | |
|----------------------|-----|
| Vote: Jeffrey Picard | Yes |
| Robert King | Yes |

| | |
|------------------|-----|
| James Kalweit | Yes |
| Jennifer Reising | Yes |
| David Darling | Yes |
| Mark Callahan | Yes |

B. NEW BUSINESS (Refer to the Planning Board for Public Hearing)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-175
INTRO: 05/06/21**

2021-175 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO REVISE THE DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND AMENDING ARTICLE V, CHAPTER 240, SECTION 47.2(C)(4) TO ALLOW ADUS WITH GREATER THAN 900 SQUARE FEET BY SPECIAL PERMIT FROM THE ZONING BOARD OF APPEALS

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article XIV, Chapter 240, Section 128 by adding in the definition of “Accessory Dwelling Unit (ADU)” the phrase “unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage” so it reads as follows:

ACCESSORY DWELLING UNIT (ADU)

An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, **unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage.**

SECTION 2

By amending Article V, Chapter 240, Section 47.2(C)(4) by adding the phrase “and/or a maximum habitable floor area greater than 900 square feet” so it reads as follows:

The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms **and/or a maximum habitable floor area greater than 900 square feet** may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

SPONSOR: Town Council Zoning & Regulatory Advisory Subcommittee (as constituted on December 16, 2020): Paula Schnepf, Councilor Precinct 12; Matthew Levesque, Councilor Precinct 10; Kristine Clark, Councilor Precinct 11; Jennifer Cullum, Councilor Precinct 13; Gordon Starr, Councilor Precinct 1

DATE

ACTION TAKEN

- ____ Read Item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close public hearing
- ____ Council discussion
- ____ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-175
INTRO: 05/06/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director, Planning & Development Department
DATE: May 4, 2021
SUBJECT: Amending Article XIV, Chapter 240, Section 128 of the zoning ordinance to revise the definition of Accessory Dwelling Unit (ADU) and amending Article V, Chapter 240, Section 47.2(C)(4) to allow ADUs with greater than 900 square feet by special permit from the Zoning Board of Appeals

BACKGROUND:

The proposed amendment adds to the definition for an Accessory Dwelling Unit (ADU) and the dimensional requirements for an ADU as defined within Article V, Chapter 240, Section 47.2(C)(4) to allow that an ADU with more than 900 square feet may be permitted by a special permit from the Zoning Board of Appeals. The new "Housing Choice" legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by establishing that zoning for 'as of right' ADUs, defined to be no larger than 900 square feet, shall be adopted by a simple majority vote. The ability to seek relief by special permit for ADUs that are greater than 900 square feet diverges from the Commonwealth's Housing Choice provisions and therefore requires a two-thirds majority vote. Massachusetts General Laws Chapter 40A Section 5 was amended to note that "any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote." Therefore, consistent with the guidance from local officials on determining voting thresholds for zoning ordinances and bylaws, the additional provision to seek a special permit for an ADU greater than 900 square feet is voted upon as a separate amendment in an effort to not combine provisions that require different voting thresholds.

RATIONALE:

The ability to seek a special permit for an ADU greater than 900 square feet enables additional flexibility supporting more diverse housing options and aligns with the provisions of the Family Apartment ordinance which similarly allows an apartment that exceeds the established maximum square footage to be authorized by special permit from the Zoning Board of Appeals. Despite any allowed increase in square footage for the ADU, the principal dwelling unit and the ADU shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot.

FISCAL IMPACT: There is no significant fiscal impact of the proposed zoning amendment.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

STAFF SUPPORT: Elizabeth Jenkins, Director of Planning & Development; Arden Cadrin, Housing Coordinator; Kate Maldonado, Assistant Director of Planning & Development, Gloria McPherson, Planning & Economic Development Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Charles McLaughlin, Assistant Town Attorney; Kathleen Connolly, Assistant Town Attorney



Town of Barnstable
Planning & Development Department
www.townofbarnstable.us/planninganddevelopment



Elizabeth Jenkins
Director

May 5, 2021

Department of Housing and Community Development
100 Cambridge Street, Suite 300 - Boston, MA 02114

Cape Cod Commission
P.O. Box 226 - 3225 Main Street (Route 6A) - Barnstable, MA 02630

Town of Sandwich, Planning Board
16 Jan Sebastien Drive - Sandwich, MA 02563

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

Town of Yarmouth, Planning Board
1146 Route 28 - Yarmouth, MA 02664

Town of Barnstable, Zoning Board of Appeals
200 Main Street - Hyannis, MA 02601

Reference: Town of Barnstable Planning Board
Proposed Zoning Amendment – TC Item No. 2021-174

AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO ADD A DEFINITION FOR ACCESSORY DWELLING UNIT (ADU) AND DWELLING UNIT, AND REVISE THE DEFINITION OF DWELLING, SINGLE-FAMILY AND ADD ARTICLE V, CHAPTER 240, SECTION 47.2 ACCESSORY DWELLING UNITS (ADUS) TO THE ZONING ORDINANCE

The Barnstable Planning Board, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Monday, May 24, 2021, at 7:00 p.m. The purpose of this public hearing is to take comment on a proposal to amend the Town of Barnstable Zoning Ordinance by amending Article XIV, Chapter 240, Section 128 of the zoning ordinance to add a definition for Accessory Dwelling Unit (ADU) and Dwelling Unit, and revise the definition of Dwelling, Single-Family and add Article V, Chapter 240, Section 47.2 Accessory Dwelling Units (ADUs) to the zoning ordinance.

Article XIV, Chapter 240, Section 128 of the zoning ordinance is proposed to be amended by adding a definition of "Accessory Dwelling Unit (ADU)" as follows: ACCESSORY DWELLING UNIT (ADU) An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the

MAY 14 2021

habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller.

Article XIV, Chapter 240, Section 128 of the zoning ordinance is proposed to be amended by adding a definition of “Dwelling Unit” as follows: DWELLING UNIT Complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Article XIV, Chapter 240, Section 128 of the zoning ordinance is proposed to be amended by striking in the definition of DWELLING, SINGLE-FAMILY the phrase “including permanent provisions for living, sleeping, eating, cooking and sanitation” so it reads as follows: DWELLING, SINGLE-FAMILY A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons.

Article V, Chapter 240 of the zoning ordinance is proposed to be amended by adding Section 47.2 Accessory Dwelling Units (ADUs) which reads as follows:

A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units is to:

- (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;
- (2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural Requirements

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single family dwelling use, except that no ADU shall be permitted on a lot at the same time as a family apartment exists on that lot pursuant to §240-47.1.
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the Federal, State, and local laws and regulations, including all historic, and Old King’s Highway requirements if applicable.

C. Use and Dimensional Requirements

The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

- (1) No more than one (1) ADU may be created per lot. This provision is not subject to variance.
- (2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.
- (3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.
- (4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.
- (5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.
- (6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.
- (7) All parking for the ADU shall be off street.
- (8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.
- (9) The rights and requirements of this ordinance hereby transfer upon the sale of a property containing an ADU built under the provisions of this ordinance.
- (10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.
- (11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. Both the ADU and the principal dwelling may be rented concurrently.

(12) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

Members of the public may participate in the Public Hearing through remote access via the Zoom link or telephone number and Meeting ID provided below as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/92268169339>

Phone: 888 475 4499 US Toll-free

Meeting ID: 922 6816 9339

3. Applicants, their representatives and individuals required or entitled to appear before the Barnstable Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Kaitlyn.maldonado@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Copies of the proposed amendment are available for review by calling 508-862-4791 or emailing Kaitlyn.maldonado@town.barnstable.ma.us.

Attach: Notice Amendment and Summary

Copy: Planning Board Chair

B. NEW BUSINESS (Refer to the Planning Board for Public Hearing)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-174
INTRO: 05/06/21**

2021-174 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO ADD A DEFINITION FOR ACCESSORY DWELLING UNIT (ADU) AND DWELLING UNIT, AND REVISE THE DEFINITION OF DWELLING, SINGLE-FAMILY AND ADD ARTICLE V, CHAPTER 240, SECTION 47.2 ACCESSORY DWELLING UNITS (ADUS) TO THE ZONING ORDINANCE

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article XIV, Chapter 240, Section 128 by adding a definition of "Accessory Dwelling Unit (ADU)" as follows:

ACCESSORY DWELLING UNIT (ADU)

An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller.

SECTION 2

By amending Article XIV, Chapter 240, Section 128 by adding a definition of "Dwelling Unit" as follows:

DWELLING UNIT

Complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

SECTION 3

By amending Article XIV, Chapter 240, Section 128 by striking in the definition of DWELLING, SINGLE-FAMILY the phrase "including permanent provisions for living, sleeping, eating, cooking and sanitation" so it reads as follows:

DWELLING, SINGLE-FAMILY

A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons.

SECTION 4

By adding Article V, Chapter 240, Section 47.2 **Accessory Dwelling Units (ADUs)** which reads as follows:

A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units (ADUs) is to:

- (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;
- (2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural Requirements

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single family dwelling use, except that no ADU shall be permitted on a lot at the same time as a family apartment exists on that lot pursuant to §240-47.1.
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the Federal, State, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

C. Use and Dimensional Requirements

The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

- (1) No more than one (1) ADU may be created per lot. This provision is not subject to variance.
- (2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.
- (3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.
- (4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.
- (5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.
- (6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.
- (7) All parking for the ADU shall be off street.
- (8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.
- (9) The rights and requirements of this ordinance hereby transfer upon the sale of a property containing an ADU built under the provisions of this ordinance.
- (10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.
- (11) An ADU shall be used only as a rental, except that the owner of the property may reside in

the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. Both the ADU and the principal dwelling may be rented concurrently.

- (12) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

SPONSOR: Town Council Zoning & Regulatory Advisory Subcommittee (as constituted on December 16, 2020): Paula Schnepf, Councilor Precinct 12; Matthew Levesque, Councilor Precinct 10; Kristine Clark, Councilor Precinct 11; Jennifer Cullum, Councilor Precinct 13; Gordon Starr, Councilor Precinct 1

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-174
INTRO: 05/06/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, Director, Planning & Development Department
DATE: May 4, 2021
SUBJECT: Amending Article XIV, Chapter 240, Section 128 of the Zoning Ordinance to add a definition for Accessory Dwelling Unit (ADU) and Dwelling Unit, and revise the definition of Dwelling, Single-Family and add Article V, Chapter 240, Section 47.2 Accessory Dwelling Units (ADUs) to the Zoning Ordinance

RATIONALE:

This item proposes an update to the Town's Zoning Ordinance to allow Accessory Dwelling Units (ADUs) as an accessory use to single-family residential dwellings town-wide. The intent and purpose of this amendment, as stated in the proposed ordinance is to increase the number of dwelling units available for year-round rental while remaining within our current wastewater capacity limitations; allow adaptation of single-family residential properties to be supportive of residents at a variety of stages in their life cycle; encourage greater diversity and support of all populations with particular attention to young adults and senior citizens enabling an intergenerational community; encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and provide homeowners with a means of obtaining rental income to defray housing costs.

The proposed Accessory Dwelling Unit ordinance directly responds to goals and recommendations in the Town's Housing Production Plan and the associated Housing Needs Assessment. These plans identify the need for expanded housing choice and additional supply of rental housing to support an intergenerational community by encouraging aging in place and the attraction and retention of younger residents. The Needs Assessment emphasizes the need for more alternative choices to single-family houses, which currently compose the majority of the Town's housing stock. Limited housing choice and the high cost of housing results in homeownership being out of reach for many families. These factors, coupled with very low vacancy rates, place a significant burden on those seeking rental housing options. The Housing Production Plan, which is a compilation of housing recommendations for the community based on the Needs Assessment and an extensive community engagement process, explicitly recommends permitting market-rate Accessory Dwellings Units accessory to existing single-family homes and in outbuildings throughout Barnstable to increase housing options.

The proposed Accessory Dwelling Unit ordinance is based on the Cape Cod Commission's model Accessory Dwelling Unit ordinance. The model ADU ordinance allows ADUs by-right to support the addition of small scale housing alternatives in an effort to meet housing needs within our region. In an overview of the model ADU ordinance, the Commission highlights how the gap between median annual income and the cost of housing continues to widen. At the same time, the average household size is declining creating a demand for smaller units. Allowing ADUs by right will expand housing choices and increase the number of smaller units, which the Commission notes as being an important part of meeting Cape Cod's housing challenge especially in areas of our region with limited infrastructure and sensitive habitats. To date nine other towns on Cape Cod have adopted by-right Accessory Dwelling Unit bylaws.

Additionally, the new "Housing Choice" legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by making it easier to approve housing supportive zoning. The new legislation reduces the required vote for the approval of zoning amendments allowing as of right ADUs, whether within the principal dwelling or a detached structure on the same lot, from a two-thirds majority vote to a simple majority vote.

Furthermore, Town Council's Strategic Plan housing goal includes developing and promoting rental housing to meet the needs of residents. One of the identified strategies is to review zoning issues identified by the Council to determine how to best achieve housing goals through zoning and regulatory changes. Our current zoning allows for the incorporation of accessory apartments through the Accessory Affordable Apartment Program (AAAP) and our Family Apartment ordinance. However, the Housing Production Plan notes that although AAAP has been a successful tool for producing affordable housing, the process requires a Comprehensive Permit and Zoning Board of Appeals approval for each unit, which was noted to be a cumbersome process. The Family Apartment ordinance allows, within a residential district, one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit. While the Family Apartment ordinance allows more diverse housing it is limited by factors including duration and is prohibited for non-family members. Allowing ADUs as of right is an effort aimed at increasing the supply of rental housing to better meet the needs of our residents.

The proposed zoning ordinance allows ADUs "by right" to encourage the creation of new units, while including limitations on size, dimension, style, number of bedrooms, and occupancy necessary to protect community character. ADUs are further limited by the general standards required for all buildings (setbacks, height, etc.) and uses contained in the underlying zoning. The ordinance proposes allowing specific restrictions to be exceeded with the grant of a Special Permit by the Zoning Board of Appeals: bedrooms in excess of two and occupants (over 18) in excess of two. A third standard, ADUs in excess of 900 square feet, is the subject of the second item under consideration.

The proposed ordinance does not include an owner occupancy requirement, consistent with the recommendation in the Cape Cod Commission's model. It allows the rental of both or either of the units, so long as the ownership of the units is not severed. The proposed zoning ordinance requires that any rental on a property with an ADU be no shorter than 12 consecutive months, in

keeping with the goal of increasing the supply of year-round rentals. This provision prevents the owner of a single family dwelling with an ADU from offering any rental for a time period shorter than 12 consecutive months, thereby deterring short term rentals in neighborhoods and promoting housing opportunity for year-round residents.

The ordinance also requires properties with ADUs to remain within established wastewater capacity limitations. The principal dwelling unit and ADU must meet all wastewater requirements for the combined number of bedrooms/wastewater flow on a lot. No additional wastewater disposal capacity is permitted by this zoning amendment.

FISCAL IMPACT: There is no significant fiscal impact of the proposed zoning amendment.

TOWN MANAGER RECOMMENDATION: Mark S. Eells, Town Manager, recommends the proposed zoning amendment.

STAFF SUPPORT: Elizabeth Jenkins, Director of Planning & Development; Arden Cadrin, Housing Coordinator; Kate Maldonado, Assistant Director of Planning & Development, Gloria McPherson, Planning & Economic Development Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Charles McLaughlin, Assistant Town Attorney; Kathleen Connolly, Assistant Town Attorney



Town of Barnstable
Planning & Development Department
www.townofbarnstable.us/planninganddevelopment



Elizabeth Jenkins
Director

May 5, 2021

Department of Housing and Community Development
100 Cambridge Street, Suite 300 - Boston, MA 02114

Cape Cod Commission
P.O. Box 226 - 3225 Main Street (Route 6A) - Barnstable, MA 02630

Town of Sandwich, Planning Board
16 Jan Sebastien Drive - Sandwich, MA 02563

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

Town of Yarmouth, Planning Board
1146 Route 28 - Yarmouth, MA 02664

Town of Barnstable, Zoning Board of Appeals
200 Main Street - Hyannis, MA 02601

Reference: Town of Barnstable Planning Board
Proposed Zoning Amendment – TC Item No. 2021-175

AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO REVISE THE DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND AMENDING ARTICLE V, CHAPTER 240, SECTION 47.2(C)(4) TO ALLOW ADUS WITH GREATER THAN 900 SQUARE FEET BY SPECIAL PERMIT FROM THE ZONING BOARD OF APPEALS

The Barnstable Planning Board, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Monday, May 24, 2021, at 7:00 p.m. The purpose of this public hearing is to take comment on a proposal to amend the Town of Barnstable Zoning Ordinance by amending Article XIV, Chapter 240, Section 128 of the zoning ordinance to revise the definition of Accessory Dwelling Unit (ADU) and amending Article V, Chapter 240, Section 47.2(C)(4) to allow ADUs with greater than 900 square feet by special permit from the Zoning Board of Appeals.

Article XIV, Chapter 240, Section 128 of the zoning ordinance is proposed to be amended by adding in the definition of "Accessory Dwelling Unit (ADU)" the phrase "unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage" so it reads as follows: ACCESSORY DWELLING UNIT (ADU) An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly

MAY 14 2021

from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage.

Article V, Chapter 240, Section 47.2(C)(4) of the zoning ordinance is proposed to be amended by adding the phrase “and/or a maximum habitable floor area greater than 900 square feet” so it reads as follows: The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms and/or a maximum habitable floor area greater than 900 square feet may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

Members of the public may participate in the Public Hearing through remote access via the Zoom link or telephone number and Meeting ID provided below as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/92268169339>

Phone: 888 475 4499 US Toll-free Meeting ID: 922 6816 9339

3. Applicants, their representatives and individuals required or entitled to appear before the Barnstable Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through accessing the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Kaitlyn.maldonado@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Copies of the proposed amendment are available for review by calling 508-862-4791 or emailing Kaitlyn.maldonado@town.barnstable.ma.us.

Attach: Notice Amendment and Summary
Copy: Planning Board Chair



MAY 14 2021

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 Robert L. Deters and Jean M. Casello, 65 Philadelphia Street, Ma.

(Map 39A, Lot 538) under 240-3 C. of the Zoning by-Law, as amended to **grant** the special permit to raze and reconstruct the dwelling.

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 **May 6, 2021**, which is the date the Decision was filed in the office of the Town Clerk.

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



MAY 14 2021

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 **Christopher R. Wagner**, 87 Mariners Lane, Falmouth.

(Map 47, Lot 009) **under** 240-3 C. and 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to construct additions increasing 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 **May 5, 2021** which is the date the Decision was filed in the office of the Town Clerk.

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

MAY 3 2021



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 **Lawrence T. and Valerie Sullivan**, 345 Grand Avenue, Falmouth, Ma.

(Map 46B, Lot 052) **under** 240-3 C. and 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to raze and reconstruct the nonconforming dwelling.

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 **April 26, 2021** which is the date the Decision was filed in the office of the Town Clerk.

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



MAY 3 2021

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 **Marilois Snowman, 25 Depot Avenue, Falmouth, Ma.**

(Map 38A, Lot 000) **under** 240-51 A (2) of the Zoning By-Law, as amended to **grant** the special permit to convert the interior space of the mixed use dwelling to be a multifamily use.

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 **April 26, 2021** which is the date the Decision was filed in the office of the Town Clerk.

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



MAY 5 2021

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 Antonio H. and Judith C. DePina, 14 Andy's Lane, West Falmouth, Ma.

(Map 26, Lot 009) under 240-69 E. of the Zoning by-Law, as amended to **grant** the special permit to install an above ground pool 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 **April 30, 2021**, which is the date the Decision was filed in the office of the Town Clerk.

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



MAY 5 2021

TOWN OF FALMOUTH
MASSACHUSETTS

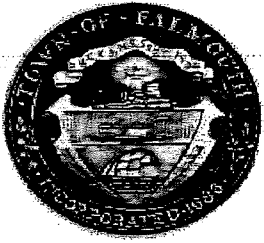
BOARD OF APPEALS

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 **Thomas W. and Michelle M. Oliver**, 643 Old Barnstable Road, East Falmouth, Ma. (Map 20, Lot 009) under 240-38 G. of the Zoning by-Law, as amended to **grant** the special permit to construct a detached three-car garage.

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 **April 30, 2021** which is the date the Decision was filed in the office of the Town Clerk.

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



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

MAY 4 2021

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

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, public meetings of the Falmouth Zoning Board of Appeals shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Falmouth Community Television.
2. Real-time public comment can be addressed to the Zoning Board of Appeals utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.
 - a. Zoom Login instructions:
 - i. Browse to the following web address: <http://www.falmouthma.gov/ZBA>
 - ii. For mobile devices (tablets and phones), please go to either 'Google Play' [Android] or the iOS 'App Store' [iPhones and iPads] and download the free program 'ZOOM'. Then click the 'join a meeting' link and type in '655 502 768'. If you have not registered with Zoom you will be asked for your name and an e-mail address.
3. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may appear remotely and are not required to be physically present. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may contact the IT Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to FALZBA@FALMOUTHMA.GOV, so that they may be displayed for remote public access viewing.
4. You may also send any comments regarding an application in advance of the meeting to FALZBA@FALMOUTHMA.GOV.



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 #025-21 Philip B. Heald, Jr. and Jennifer J. Heald, Trustees: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-23(G) of the Code of Falmouth to allow a third garage bay on subject property known as 19 Shapquit Bars Road, West Falmouth, Ma.

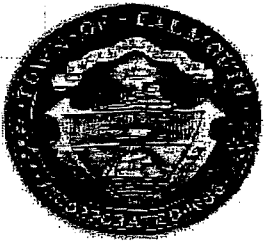
Map 14 Section 15A Parcel 002 Lot(s) 027

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, May 20, 2021 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

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 <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA> *



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

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

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

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

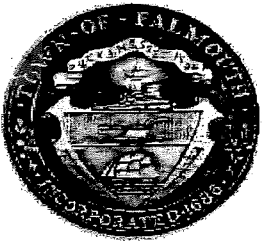
Application #026-21 Melissa McKim and William A. McKim, Trustees, 40 Turners Way, Norwell, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to construct a cupola, extend existing storage space and modify the front and rear façades of the existing boat shed on subject property known as 306 Scranton Avenue, Falmouth, Ma.

Map 47C Section 06 Parcel 008 Lot(s) 003

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, May 20, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

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 http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA*



TOWN OF FALMOUTH

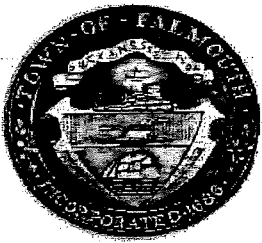
ZONING BOARD OF APPEALS

MAY 4 2021

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

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, public meetings of the Falmouth Zoning Board of Appeals shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Falmouth Community Television.
2. Real-time public comment can be addressed to the Zoning Board of Appeals utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.
 - a. Zoom Login instructions:
 - i. Browse to the following web address: <http://www.falmouthma.gov/ZBA>
 - ii. For mobile devices (tablets and phones), please go to either 'Google Play' [Android] or the iOS 'App Store' [iPhones and iPads] and download the free program 'ZOOM'. Then click the 'join a meeting' link and type in '655 502 768'. If you have not registered with Zoom you will be asked for your name and an e-mail address.
3. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may appear remotely and are not required to be physically present. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may contact the IT Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to FALZBA@FALMOUTHMA.GOV, so that they may be displayed for remote public access viewing.
4. You may also send any comments regarding an application in advance of the meeting to FALZBA@FALMOUTHMA.GOV.



TOWN OF FALMOUTH

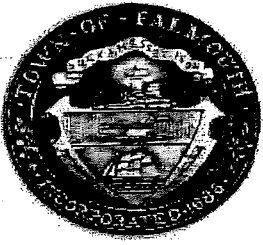
ZONING BOARD OF APPEALS

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

MAY 4 2021

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, public meetings of the Falmouth Zoning Board of Appeals shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

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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:

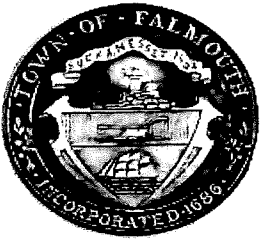
Application #028-21 Barnstable County Agricultural Society, Inc., 1220 Nathan S. Ellis Highway, East Falmouth, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-38, 240-109 A., 240-109 B., 240-160 and 240-18 of the Code of Falmouth to allow non-agricultural events with associated parking and parking for a fee. The subject property is 1220 Nathan S. Ellis Highway, East Falmouth, Ma.

Map 18 Section 02 Parcel 005 Lot(s) 001 and associated lots

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, May 20, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

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 <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA>*



TOWN OF FALMOUTH

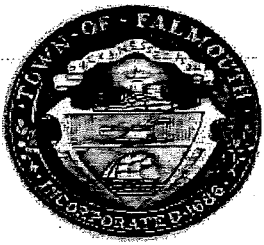
ZONING BOARD OF APPEALS

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

MAY 4 2021

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, public meetings of the Falmouth Zoning Board of Appeals shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

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 - ii. For mobile devices (tablets and phones), please go to either 'Google Play' [Android] or the iOS 'App Store' [iPhones and iPads] and download the free program 'ZOOM'. Then click the 'join a meeting' link and type in '655 502 768'. If you have not registered with Zoom you will be asked for your name and an e-mail address.
3. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may appear remotely and are not required to be physically present. Applicants, their representatives and individuals required to appear before the Zoning Board of Appeals may contact the IT Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to **FALZBA@FALMOUTHMA.GOV**, so that they may be displayed for remote public access viewing.
4. You may also send any comments regarding an application in advance of the meeting to **FALZBA@FALMOUTHMA.GOV**.



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 #024-21 Stephen D. and Elizabeth S. Cramer, 160 Jamie Lane, Stoughton, Ma: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to remove existing deck and construct an addition at the rear of the dwelling on subject property known as 8 Hawthorne Court, Falmouth, Ma.

Map 46B Section 22 Parcel 004 Lot(s) 008

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, May 20, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

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 <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA> *



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

MAY 14 2021

In accordance with M.G.L. Ch. 138, and Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus" and the Board of Appeals Open Meeting Law Declaration providing explanatory language on the use of Virtual Meetings, the Sandwich Board of Appeals will hold a Public Hearing on Tuesday, May 25, 2021 at 6:00 p.m. which shall be convened remotely via a ZOOM videoconference and broadcast live on SCTV to consider the application of Al & Rosemary Morteo, Lisa & Kevin Cobban, Lisa & Lloyd Lipsett and Pam & Tom Arrighi, Applicants, for an Appeal of Decision of the Building Commissioner under MGL Chapter 40A, Section 8, for property located at 98 Town Neck Road & 3 Freeman Avenue, Sandwich, MA, Assessor's Map #93, Parcel #13, for the purpose of appealing the issuance of a building permit. The public record information can be viewed at the Planning & Development Office, 16 Jan Sebastian Drive, Sandwich, MA, Monday – Friday, 8:30 a.m. to 4:30 p.m.

Anyone wishing to be heard on the subject will be afforded an opportunity to comment by email to planning@sandwichmass.org. This comment line will be monitored during the meeting.

Erik Van Buskirk, Chair
Sandwich Board of Appeals
Publication: Sandwich Enterprise
Publication Dates: May 7, and May 14, 2021



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

MAY 14 2021

In accordance with M.G.L. Ch. 138, and Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus" and the Board of Appeals Open Meeting Law Declaration providing explanatory language on the use of Virtual Meetings, the Sandwich Board of Appeals will hold a public hearing on Tuesday, May 25, 2021 at 6:00 p.m. which shall be convened remotely via a ZOOM videoconference and broadcast live on SCTV to consider the application of Cary Casoli, applicant and property owner, for a Variance under Sections 1321 and 2550c of the Sandwich Protective Zoning By-Law for property located at 0 Route 6A, Lot 1A, Sandwich, MA, Assessor's Map #67, Parcel #52, for the purpose of unmerging two nonconforming lots. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Anyone wishing to be heard on the subject will be afforded an opportunity to comment by email to planning@sandwichmass.org. This comment line will be monitored during the meeting.

Erik Van Buskirk, Chair
Sandwich Board of Appeals

Publication: Sandwich Enterprise
Publication Dates: May 7 and May 14, 2021



APR 29 2021

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

In accordance with M.G.L. Ch. 138, and Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus" and the Board of Appeals Open Meeting Law Declaration providing explanatory language on the use of Virtual Meetings, the Sandwich Board of Appeals will hold a public hearing on Tuesday, May 11, 2021 at 6:00 p.m. which shall be convened remotely via a ZOOM videoconference and broadcast live on SCTV to consider the application of WingsWay, LLC, applicant and property owner, for a Special Permit under Sections 1330, 2420, 2600 (c) and 4340 of the Sandwich Protective Zoning By-Law for property located at 14 Beach Way, East Sandwich, MA, Assessor's Map #57, Parcel #1, for the purpose of renovating and enlarging a pre-existing nonconforming structure with associated site improvements. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Anyone wishing to be heard on the subject will be afforded an opportunity to comment by email to planning@sandwichmass.org. This comment line will be monitored during the meeting.

Erik Van Buskirk, Chair
Sandwich Board of Appeals

Publication: Sandwich Enterprise
Publication Dates: April 23 and April 30, 2021

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Planning Board

16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
Email: planning@sandwichmass.org

MAY 5 2021

TOWN OF SANDWICH PUBLIC HEARING NOTICE PLANNING BOARD

In accordance with M.G.L. Ch. 138, and Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus" and the Planning Board's Open Meeting Law Declaration providing explanatory language on the use of Virtual Meetings, the Sandwich Planning Board will hold a public hearing on May 18, 2021 at 7:00 p.m. which shall be convened remotely via ZOOM videoconference to consider the application of the Town of Sandwich, Property Owner, and Quaker Meeting House Road 2 Solar Project 2019, LLC, Applicant, for a Special Permit for property located at 365 Quaker Meeting House Road, Map #34, Parcel #002, East Sandwich, MA, for the purpose of a large scale ground mounted solar photovoltaic installation. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Anyone wishing to be heard on the subject will be afforded an opportunity to comment by email to planning@sandwichmass.org. This comment line will be monitored during the meeting. Anyone wishing to participate via ZOOM can contact the Planning office for the log-in credentials.

Jeffrey R. Picard, Chair
Sandwich Planning Board

Publication: Sandwich Enterprise
Publication Dates: April 30, and May 7, 2021

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Planning Board

16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
Email: planning@sandwichmass.org

MAY 5 2021

TOWN OF SANDWICH PUBLIC HEARING NOTICE PLANNING BOARD

In accordance with M.G.L. Ch. 138, and Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus" and the Planning Board's Open Meeting Law Declaration providing explanatory language on the use of Virtual Meetings, the Sandwich Planning Board will hold a public hearing on May 18, 2021 at 7:00 p.m. **which shall be convened remotely via ZOOM videoconference** to consider the application of the Town of Sandwich, Property Owner, and Round Hill Road Solar Project 2020, LLC & Round Hill Road Golf Cart Solar Project 2020, LLC, Applicants, for a Special Permit for property located at 1000 Round Hill Road, Map #24, Parcel #203, East Sandwich, MA, for the purpose of a large scale ground mounted solar photovoltaic installation. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Anyone wishing to be heard on the subject will be afforded an opportunity to comment by email to planning@sandwichmass.org. This comment line will be monitored during the meeting. Anyone wishing to participate via ZOOM can contact the Planning office for the log-in credentials.

Jeffrey R. Picard, Chair
Sandwich Planning Board

Publication: Sandwich Enterprise
Publication Dates: April 30, and May 7, 2021

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM

MAY 4 2021

Notice of Permit Application Pursuant to M. G. L. Chapter 91
Waterways Permit Application Number W21-5965
Lisa and Christopher Conti

NOTIFICATION DATE: April 30, 2021

Public notice is hereby given of the waterways application by Lisa and Christopher Conti to maintain an existing pier, ramp, and float at 45 Popponesset Island Road, in the municipality of Mashpee, in and over flowed tidelands of Popponesset Creek. The proposed project has been determined to be water-dependent.

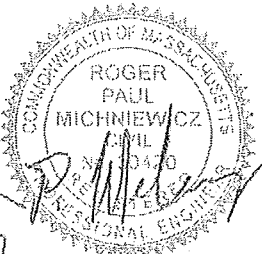
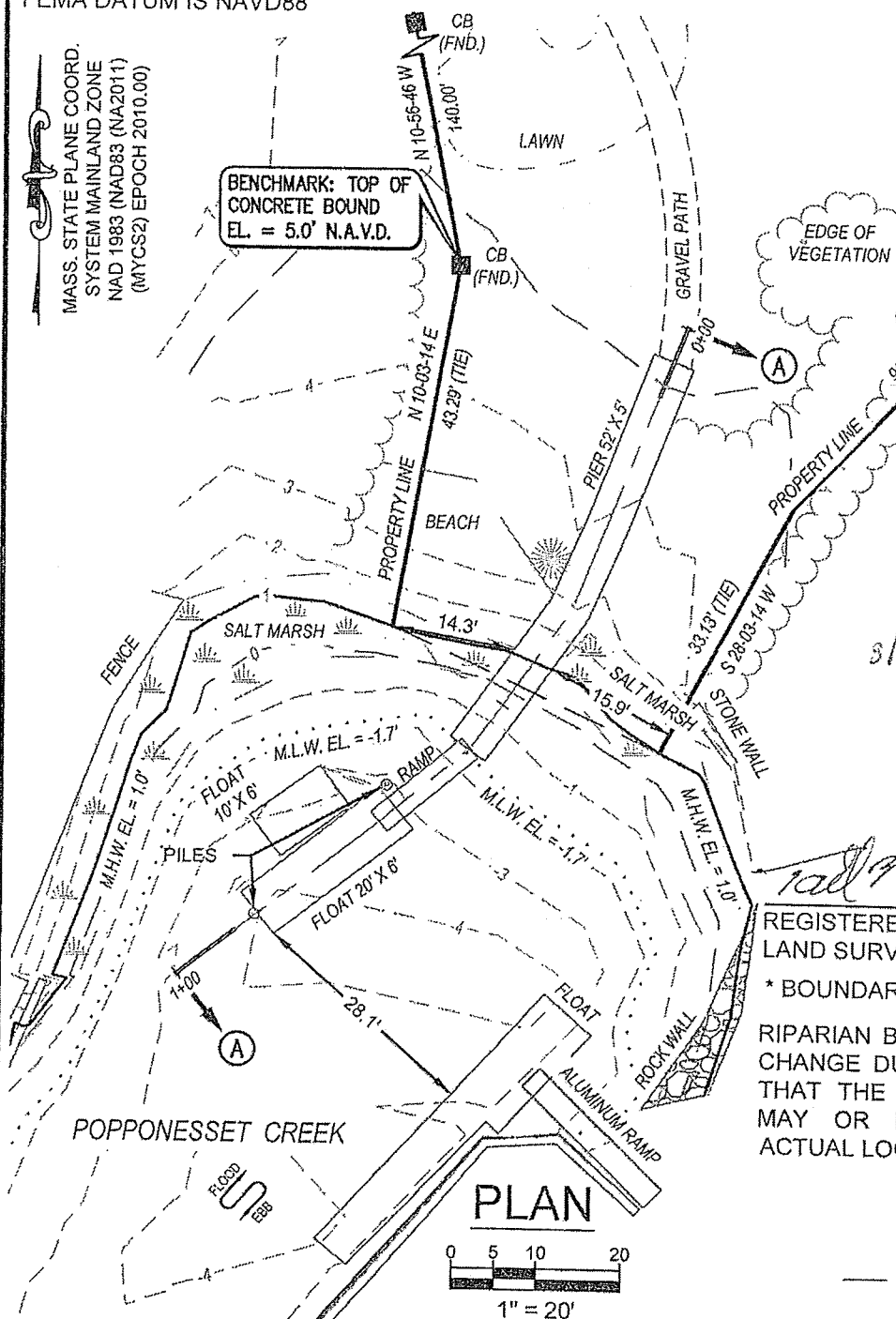
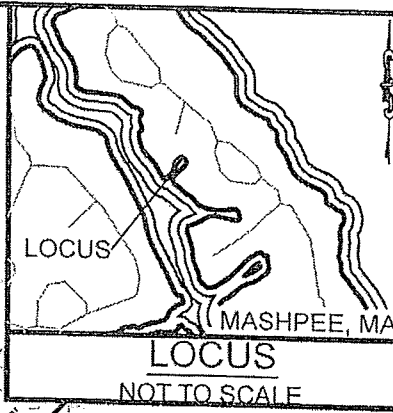
The Department will consider all written comments on this Waterways application received within thirty (30) days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more, with at least five of the ten residents residing in the municipality(s) in which the license or permitted activity is located, to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

Additional information regarding this application, including plans and associated documents, may be obtained by contacting the Waterways Regulation Program at (508) 946-2707 or brendan.mullaney@mass.gov.

Written comments must be addressed to: Brendan Mullaney, Environmental Analyst, DEP Waterways Regulation Program, 20 Riverside Drive, Lakeville, MA 02347 or brendan.mullaney@mass.gov.

REFERENCE DATUM IS NAVD88
 FEMA DATUM IS NAVD88

MASS. STATE PLANE COORD.
 SYSTEM MAINLAND ZONE
 NAD 1983 (NAD83 (NA2011)
 (MYCS2) EPOCH 2010.00)



3/8/21

rad mce 3/8/21

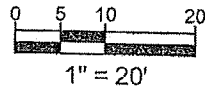
REGISTERED PROFESSIONAL
 LAND SURVEYOR

* BOUNDARY RETRACEMENT SURVEY

RIPARIAN BOUNDARIES ARE SUBJECT TO
 CHANGE DUE TO NATURAL CAUSES AND
 THAT THE BOUNDARY SHOWN HEREON
 MAY OR MAY NOT REPRESENT THE
 ACTUAL LOCATION OF THE LIMIT OF TITLE.

LEGEND

- — — — — MAJOR CONTOUR
- - - - - MINOR CONTOUR
- — — — — COASTAL BANK
- — — — — EDGE OF MARSH



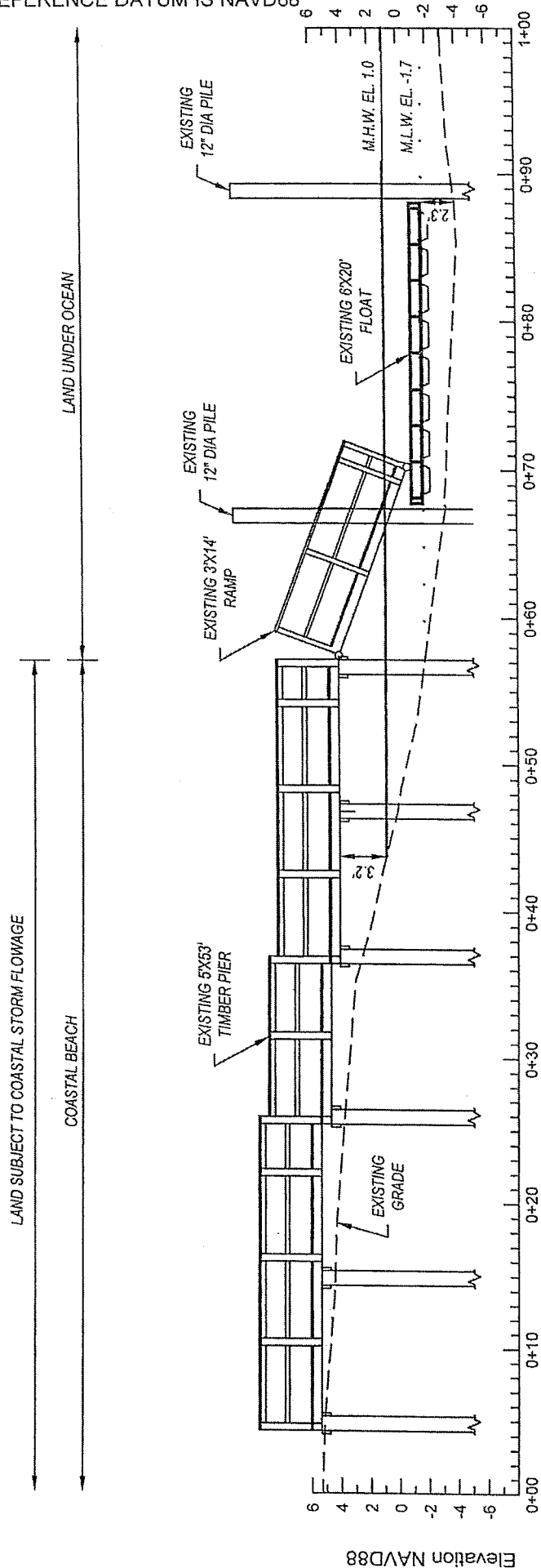
EXISTING CONDITIONS PLAN

PLAN TO ACCOMPANY PETITION OF
LISA AND CHRISTOPHER CONTI
 TO LICENSE AN EXISTING DOCK
 IN POPPONESSET CREEK,
 MASHPEE, BARNSTABLE COUNTY, MA

REF: ASSESSOR'S MAP 106 PARCEL 14
 ADDRESS: 45 POPPONESSET ISLAND RD, MASHPEE,
 MA

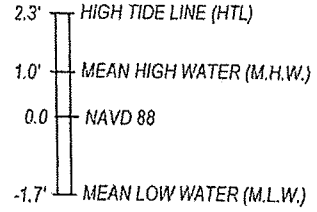
PREPARED BY
 COASTAL ENGINEERING CO., INC.
 260 CRANBERRY HIGHWAY
 ORLEANS, MA 02653
 DRAWN BY: CMP/ ELN
 DRAWING: C19517-C.dwg
 MARCH 5, 2021

REFERENCE DATUM IS NAVD88



DATUM NOTE:

ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)

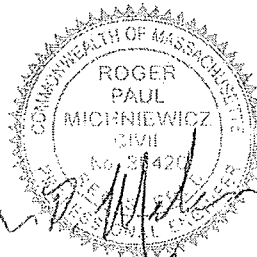


DATUM PROFILE

SCALE: 1" = 4'
REF: NOAA VDATUM 12-07-2020
REF: BUZZARDS BAY NATIONAL ESTUARY PROGRAM

SECTION A-A




 Roger Paul Michniewicz
 3.8.21

PLAN TO ACCOMPANY PETITION OF LISA AND CHRISTOPHER CONTI

TO LICENSE AN EXISTING DOCK IN POPPONSETT CREEK, MASHPEE, BARNSTABLE COUNTY, MA

PREPARED BY COASTAL ENGINEERING CO., INC. 260 CRANBERRY HIGHWAY

ORLEANS, MA 02653
DRAWN BY: CMP/ ELN



Massachusetts Department of Environmental Protection

eDEP Transaction Copy

Here is the file you requested for your records.

To retain a copy of this file you must save and/or print.

Username: **EBELAIR**

Transaction ID: **1265883**

Document: **Groundwater Discharge Monitoring Report Forms**

Size of File: **1029.56K**

Status of Transaction: **Submitted**

Date and Time Created: **4/19/2021:11:44:26 AM**

Note: This file only includes forms that were part of your transaction as of the date and time indicated above. If you need a more current copy of your transaction, return to eDEP and select to "Download a Copy" from the Current Submittals page.



Groundwater Permit

DISCHARGE MONITORING REPORT

| |
|-------------------------------|
| 668 |
| 1. Permit Number |
| [REDACTED] |
| 2. Tax identification Number |
| 2021 MAR MONTHLY |
| 3. Sampling Month & Frequency |

A. Facility Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

3/1/2021

a. Date Sampled (mm/dd/yyyy)

RI ANALYTICAL

b. Laboratory Name

NICOLE SKYLESON

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Discharge Monitoring Report - 2021 Mar Monthly

All forms for submittal have been completed.

2. This is the last selection.

3. Delete the selected form.



Groundwater Permit
 DISCHARGE MONITORING REPORT

| |
|-------------------------------|
| 668 |
| 1. Permit Number |
| [REDACTED] |
| 2. Tax identification Number |
| 2021 MAR MONTHLY |
| 3. Sampling Month & Frequency |

D. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled

| 1. Parameter/Contaminant | 2. Influent | 3. Effluent | 4. Effluent Method Detection limit |
|-----------------------------|-------------|-------------|---------------------------------------|
| Units | | | |
| BOD | 91 | 11 | 8.0 |
| MG/L | | | |
| TSS | 110 | 20 | 2.0 |
| MG/L | | | |
| TOTAL SOLIDS | 410 | | |
| MG/L | | | |
| AMMONIA-N | 16 | | |
| MG/L | | | |
| NITRATE-N | | ND | 0.25 |
| MG/L | | | |
| TOTAL NITROGEN(NO3+NO2+TKN) | | 4.1 | 0.25 |
| MG/L | | | |
| OIL & GREASE | | ND | 0.5 |
| MG/L | | | |



Groundwater Permit

DAILY LOG SHEET

| |
|-------------------------------|
| 668 |
| 1. Permit Number |
| [REDACTED] |
| 2. Tax identification Number |
| 2021 MAR DAILY |
| 3. Sampling Month & Frequency |

A. Facility Information

Important:When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

3/31/2021

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JOHN APREA

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Daily Log Sheet - 2021 Mar Daily

All forms for submittal have been completed.

2. This is the last selection.

3. Delete the selected form.



Groundwater Permit
DAILY LOG SHEET

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 MAR DAILY
3. Sampling Month & Frequency

C. Daily Readings/Analysis Information

| Date | Effluent Flow GPD | Reuse Flow GPD | Irrigation Flow GPD | Turbidity | Influent pH | Effluent pH | Chlorine Residual (mg/l) | UV Intensity (%) |
|------|-------------------|----------------|---------------------|-----------|-------------|-------------|--------------------------|------------------|
| 1 | 15620 | | | | | 7.4 | | |
| 2 | 11506 | | | | | 7.5 | | |
| 3 | 11749 | | | | | 7.1 | | |
| 4 | 15613 | | | | | 7.2 | | |
| 5 | 14440 | | | | | 7.3 | | |
| 6 | 14440 | | | | | | | |
| 7 | 14440 | | | | | | | |
| 8 | 15533 | | | | | 7.3 | | |
| 9 | 11345 | | | | | 7.3 | | |
| 10 | 19611 | | | | | 7.4 | | |
| 11 | 11662 | | | | | 7.3 | | |
| 12 | 15626 | | | | | 7.2 | | |
| 13 | 15626 | | | | | | | |
| 14 | 15626 | | | | | | | |
| 15 | 8099 | | | | | 7.2 | | |
| 16 | 11745 | | | | | 7.1 | | |
| 17 | 11627 | | | | | 7.4 | | |
| 18 | 7827 | | | | | 7.5 | | |
| 19 | 10307 | | | | | 7.4 | | |
| 20 | 10307 | | | | | | | |
| 21 | 10307 | | | | | | | |
| 22 | 11927 | | | | | 7.1 | | |
| 23 | 7595 | | | | | 7.1 | | |
| 24 | 11713 | | | | | 7.3 | | |
| 25 | 10131 | | | | | 7.2 | | |
| 26 | 9605 | | | | | 7.3 | | |
| 27 | 9605 | | | | | | | |
| 28 | 9605 | | | | | | | |
| 29 | 284 | | | | | 7.3 | | |
| 30 | 7990 | | | | | 7.3 | | |
| 31 | 7796 | | | | | 7.1 | | |



Groundwater Permit

MONITORING WELL DATA REPORT

| |
|-------------------------------|
| 668 |
| 1. Permit Number |
| [REDACTED] |
| 2. Tax identification Number |
| 2021 MAR MONTHLY |
| 3. Sampling Month & Frequency |

A. Facility Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

3/1/2021

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JOHN APREA

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Monitoring Well Data Report - 2021 Mar Monthly

All forms for submittal have been completed.

2. This is the last selection.

3. Delete the selected form.



Groundwater Permit
 MONITORING WELL DATA REPORT

| |
|-------------------------------|
| 668 |
| 1. Permit Number |
| [REDACTED] |
| 2. Tax identification Number |
| 2021 MAR MONTHLY |
| 3. Sampling Month & Frequency |

C. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled
- DRY = Not enough water in well to sample.

<

| Parameter/Contaminant | P-1 | P-2 | P-4 | P-6 | Well #: 5 | Well #: 6 |
|-----------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Units | Well #: 1 | Well #: 2 | Well #: 3 | Well #: 4 | | |
| PH | 5.9 | DRY | 7.1 | 6.8 | | |
| S.U. | | | | | | |
| STATIC WATER LEVEL | 24.7 | DRY | 49.6 | 52 | | |
| FEET | | | | | | |
| SPECIFIC CONDUCTANCE | 742 | DRY | 786 | 680 | | |
| UMHOS/C | | | | | | |



Groundwater Permit

668

1. Permit Number

2. Tax identification Number

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification

If you are filing electronic-ally and want to attach additional comments, select the check box.



Facility Information

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

ELIZABETH BELAIR

a. Signature

4/19/2021

b. Date (mm/dd/yyyy)

Reporting Package Comments

PLANT MET ALL DISCHARGE PERMIT REQUIREMENTS FOR MARCH 2021. PUMPED 17,000 FOR TANK MAINTENANCE.