



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

RECEIVED

JUL 9 2019

TOWN CLERK
SOUTH YARMOUTH, MA

AMENDMENT II TO DECISION #4807

FILED WITH TOWN CLERK: July 9, 2019

PETITION NO: #4807

HEARING DATE: June 13, 2019

PETITIONER: 17-18 Neptune Lane, LLC, d/b/a Skippy's Pier 1 Marina

PROPERTY: 17 Neptune Lane, South Yarmouth, MA
Map & lot#: 0032.118; Zoning District: B1
Book/Page: 26584/273

MEMBERS PRESENT AND VOTING: Steven S. DeYoung, Chairman, Dick Martin, Thomas Nickinello, Susan Brita and Tom Baron.

The following is an additional Amendment (Amendment II) to Decision No. 4807. In all other respects, the Decision dated June 19 remains in full force and effect.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in *The Register*, the hearing opened and held on the date stated above.

Paragraph 3:

The Petitioner's representative, Sandy DiGiovanni, presented: The intended hours of operation are 9 A.M. to sunset, 7 days weekly. The proposal includes Jet Ski rentals to originate from the dock location with a total of 12 Jet Skis included in the operation. Each group of Jet Skis (5-6 per group) will be accompanied by a guide employed by Gold Coast Corporation to assure the safety of the Jet Ski operators, to assure compliance with "no wake zone" areas, and to assure that once the Jet Skis are out of the Parkers River the operators will **not go closer than the regulations for boat operations as set forth in Yarmouth Harbormasters attached regulations MGL Chap. 90B and 323 CMR.** The guide will remain with the Jet Ski operators at all times. Additionally, there will be a boat(s) operated from the location for patrons to be able to enjoy a parasailing adventure.

Paragraph 5:

No one spoke in opposition to the Petition: The Petitioner agreed with the contents of the various memos and memoranda **except for the following statements that were agreed to be removed from conditions. The Board agreed during the meeting of June 13th to strike from Karl vonHone's Memo the following: "however, I would prefer that all vessels (boats and personal watercraft) be fueled at a fueling facility on land with a buffer of 100 feet. Hand fueling is not recommended on the water. If allowed the facility should be required to have a fuel containment boom deployed around the vessel being fueled and recovery equipment on hand at all times in case of a spill."**

BK 32150 Pg 117

The Board agreed to remove Carl E. Lawson's Hazardous Waste Memorandum. In the Memo from Kelly Grant, Conservation Administrator, "refueling containers should be no greater than five gallon in size" and "Parasails and Jet Skis should operate as far from shoreline as possible" as this last statement is arbitrary and operation restrictions are set forth in MGL Chap 90B and 323 CMR.

Paragraph 6:

After careful consideration of the history of operation of this business by Gold Coast Corporation, it's plan of operations, the conditions to be imposed upon its operations and the protections to be afforded to both the environment and people enjoying the waterways and beaches of Yarmouth, the Board found that the grant of a Special Permit would not result in any undue hazard, nuisance nor congestion nor be detrimental to the current or future character of the neighborhood or town and could be granted with conditions as follows: 1. That all conditions and restrictions set forth with the aforementioned Memorandum and Memos be incorporated into and become part of the grant of the Special Permit **except for changes as stated above** and that the Petitioner and the operator assure full compliance with these conditions and restrictions; 2. The Petitioner and the operator, Gold Coast Corporation conduct the operation consistent with and subject to the Operational Plan 2019 submitted with the Petition, **including the Petitioner's utilization of six gallon gas cans, filled and refilled at multiple times each day, provided that gasoline is not transported from the gas station to the location in excess of 21 gallons and that no fuel will be stored overnight at the location except for that fuel that is in the boat/jet ski fuel tanks**; 3. That the Petitioner/operator initiate and obtain an annual inspection of the Board of Health.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. This decision must be recorded at the Registry of Deeds and a copy forwarded to the Board of Appeals. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw, MGL c40A §9)



Steven S. DeYoung, Chairman



TOWN OF YARMOUTH

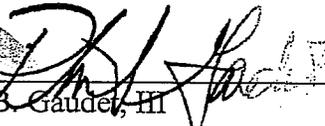
1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4451
Telephone (508) 398-2231 Ext. 1285, Fax (508) 398-0836

Town
Clerk

AMENDMENT II TO DECISION #4807

CERTIFICATION OF TOWN CLERK

I, Philip B. Gaudet, III, Town Clerk, Town of Yarmouth, do hereby certify that **20 days** have elapsed since the filing with me of the above Board of Appeals Decision #4807 that no notice of appeal of said decision has been filed with me, or, if such appeal has been filed it has been dismissed or denied. All appeals have been exhausted.


Philip B. Gaudet, III
Town Clerk

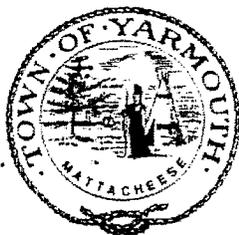


BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

RECEIVED

JUN 28 2019

TOWN CLERK
SOUTH YARMOUTH, MA



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

AMENDMENT TO DECISION #4807

FILED WITH TOWN CLERK: June 28, 2019

PETITION NO: #4807

HEARING DATE: June 13, 2019

PETITIONER: 17-18 Neptune Lane, LLC, d/b/a Skippy's Pier 1 Marina

PROPERTY: 17 Neptune Lane, South Yarmouth, MA
Map & lot#: 0032.118; Zoning District: B1
Book/Page: 26584/273

MEMBERS PRESENT AND VOTING: Steven S. DeYoung, Chairman, Dick Martin, Thomas Nickinello, Susan Brita and Tom Baron.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in *The Register*, the hearing opened and held on the date stated above.

The following is an amendment to Decision #4807, made to correct a scrivener's error: That as to condition No. 1 of said Decision, the reference to the Memorandum of Carl E. Lawson dated June 5, 2019 be removed; that as to Condition No. 2, the following be added after the word Petition, "including the Petitioner's utilization of three six gallon fuel cans, filled and refilled at multiple times each day, provided that no gasoline storage, other than that in the boat/jet ski fuel tanks, exceed 21 gallons at any one time."

In all other respects, the Decision dated June 19 remains in full force and effect.

Mr. Nickinello moved and Mr. Martin seconded to Amend Decision #4807 as stated. On this Motion, the Board voted unanimously in favor of the Amendment.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. This decision must be recorded at the Registry of Deeds and a copy forwarded to the Board of Appeals. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw, MGL c40A §9)

Steven S. DeYoung, Chairman

BK 32150 Pg 117



TOWN OF YARMOUTH

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Town
Clerk

*****AMENDMENT TO DECISION #4807*****

CERTIFICATION OF TOWN CLERK

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Philip B. Gaudet, III
Town Clerk



BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

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JUN 19 2019

TOWN CLERK
SOUTH YARMOUTH, MA

FILED WITH TOWN CLERK: June 19, 2019

PETITION NO: #4807

HEARING DATE: June 13, 2019

PETITIONER: 17-18 Neptune Lane, LLC, d/b/a Skippy's Pier 1 Marina

**PROPERTY: 17 Neptune Lane, South Yarmouth, MA
Map & lot#: 0032.118; Zoning District: B1
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MEMBERS PRESENT AND VOTING: Steven S. DeYoung, Chairman, Dick Martin, Thomas Nickinello, Susan Brita and Tom Baron.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in *The Register*, the hearing opened and held on the date stated above.

The Petitioner, 17-18 Neptune Lane, LLC, DBA Skippy's Pier 1 Marina is the Petitioner in connection with its application for a Special Permit pursuant to By-Law §104.3.2 (4). The property in question is located at 17 Neptune Lane, South Yarmouth, MA. This property is in a Zoning District-B1.

The Petitioner's representative, Sandy DiGiovanni, presented the Petition on behalf of the property owner and in connection with its request to expand a pre-existing, nonconforming use. Specifically, Gold Coast Corporation seeks to conduct business of Jet Ski rental and parasail experiences from the docks owned by the Petitioner. The docks are located on the Parkers River, immediately behind the restaurant facility operated by the Petitioner. The proposed Gold Coast Corporation Operational Plan-2019 is to provide Jet Ski rentals/excursions and parasailing experiences from the docks during the periods of Memorial Day weekend through Labor Day weekend, annually. The intended hours of operation are 9 AM to sunset, 7 days weekly. The proposal includes Jet Ski rentals to originate from the dock location with a total of 12 Jet Skis included in the operation. Each group of Jet Skis (5-6 per group) will be accompanied by a guide employed by Gold Coast Corporation to assure the safety of the Jet Ski operators, to assure compliance with "no wake zone" areas and to assure that once the Jet Skis are out of Parkers River, the operators will not go closer than the 1,000 feet from the shoreline as currently

12

restricted. The guide will remain with the Jet Ski operators at all times. Additionally, there will be a boat(s) operated from the location for patrons to be able to enjoy a parasailing adventure.

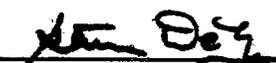
The Petitioner has entered into this arrangement with Gold Coast Corporation, a business which has been successfully run for many years and without incident. The Gold Coast Corporation's prior location (closer to the mouth of Parkers River) has become unavailable to it due to the owner's unilateral decision. This new location is further down Parkers River. The Board was, however, satisfied that the guide assigned to each group of Jet Ski operators would assure the proper operation of the machines, consistent with existing and future restrictions which may be placed upon such operations within Parkers River and off the shore of the beaches of Yarmouth.

No one spoke in opposition to the Petition. An e-mail from Kevin Huck dated June 3, 2019 was read into the record as was a Memorandum dated June 7, 2019 from Kelly Grant, Conservation Administrator, a Memo from Karl von Hone, Natural Resource Director/Harbormaster dated June 8, 2019 and a Memorandum from Karl E. Lawson, Junior, Hazardous Waste Inspector dated June 5, 2019. The Petitioner agreed that the contents of the various Memos and Memoranda will each be considered conditions to which the operation of the Jet Ski/parasail rentals would comply and be subject to. These requirements are clearly set forth within these Memos/Memoranda and reference to these conditions are, again, incorporated into this Decision, by reference.

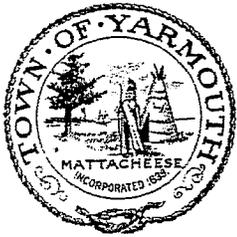
After careful consideration of the history of operation of this business by Gold Coast Corporation, its plan of operations, the conditions to be imposed upon its operations and the protections to be afforded to both the environment and people enjoying the waterways and beaches of Yarmouth, the Board found that the grant of a Special Permit would not result in any undue hazard, nuisance nor congestion nor be detrimental to the current or future character of the neighborhood or town and could be granted, with conditions as follows: 1. That all conditions and restrictions set forth within the aforementioned Memorandum and Memos be incorporated into and become part of the grant of the Special Permit and that the Petitioner and the operator assure full compliance with these conditions and restrictions; 2. The Petitioner and the operator, Gold Coast Corporation conduct the operation consistent with and subject to the Operational Plan 2019 submitted with the Petition; and 3. That the Petitioner/operator initiate and obtain an annual inspection of the Board of Health.

A Motion was made by Mr. Martin, seconded by Mr. Nickinello to grant the Special Permit consistent with §104.3.2 (4) of the By-Laws, subject to the three stated Conditions which Motion was carried unanimously in favor and, accordingly, the Special Permit was therefore approved.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. This decision must be recorded at the Registry of Deeds and a copy forwarded to the Board of Appeals. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw, MGL c40A §9)



Steven S. DeYoung, Chairman



TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492
Telephone (508) 398-2231, Ext. 1288, Fax (508) 398-2365

Conservation
Commission

MEMO

To: Board of Appeals

Fr: Kelly Grant
Conservation Administrator *KSG*

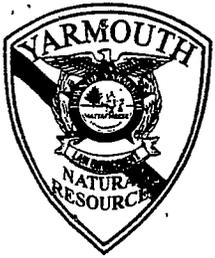
Re: Petition #4807

Date: June 7, 2019

At their June 6, 2019 meeting the Yarmouth Conservation Commission discussed the request to the Board of Appeals for a special permit by 17-18 Neptune Lane, LLC d/b/a Skippy's Pier 1 Marina to operate a Jet Ski and Parasail rental at the Marina. The Commission would like to remind the applicant that any changes to the approved pier and float configuration and/or size will require review by the Conservation Commission prior to any changes being made. The Commission provides the following recommendations to minimize impacts to protected wetland resource areas:

- Wherever possible, refueling should take place on land to reduce the risk of spilling oil or gas into the water. Where this is not feasible and refueling takes place from a floating dock, an absorbent pad should be placed around the tank opening during refueling to absorb accidental spills.
- The refueling container should be no greater than five gallons in size so as to minimize the risk of accidental spills. Proceed slowly when filling the tank, do not overfill, catch any accidental spills with an absorbent pad, and dispose of it properly.
- Check and clean engines well away from the waterbody. Oil can harm the water's delicate micro-organisms and the animals that feed on them. Fuel and other hazardous materials must be stored greater than 100 feet away from the waterbody.
- In shallow waters, boats may stir up the bottom, suspending sediments which limit light penetration and deplete oxygen. This can affect fish and bird feeding.
- Ride in main channels, and limit riding in shallow water. When it is necessary to ride in shallow water, keep watercraft at an idle speed. This will help reduce turbidity (the stirring up of bottom sediments).

- Be aware of the low tide. The waters may be substantially more shallow at these times, exposing valuable fish nurseries and other delicate vegetation. Avoid areas of salt marsh.
- Observe posted no-wake zones near shore. Excessive boat wakes may contribute to shoreline erosion, which can affect the habitats of plants and animals.
- Be a courteous boat operator. Be aware that noise and movements of boats may disturb birds, marine mammals and other wildlife. Our coastal shoreline is home to protected nesting shorebirds. Parasails and jet skis should operate as far from the shoreline as possible.
- Ride at controlled speeds so you can see any animals ahead of you. If you see an animal hit by a boat, note the location and report it immediately.

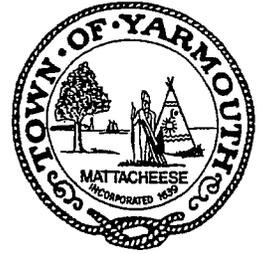


TOWN OF YARMOUTH

DEPARTMENT OF COMMUNITY SERVICES

Natural Resources Division

424 ROUTE 28 WEST YARMOUTH MASSACHUSETTS 02673-4713
TELEPHONE (508) 760-4800 FAX (508) 760-4805



Karl W. von Hone

DIRECTOR

MEMO

TO: Zoning Board of Appeals
FROM: Karl W. von Hone 
Natural Resource Director/Harbormaster
SUBJECT: Board of Appeals Petition #4807
DATE: June 8, 2019

In response to Petition #4807: Gold Coast Corp. has operated in the town of Yarmouth for a number of years. I have included some of the requirements and regulations that they must adhere to for your information and consideration for conditions. The Fire Department would regulate the fueling aspect of the operation, however, I would prefer that all vessels (boats and personal watercraft be fueled at a fueling facility on land with a buffer of 100 feet. Hand fueling is not recommended on the water. If allowed the facility should be required to have a fuel containment boom deployed around the vessel being fueled and recovery equipment on hand at all times in case of a spill.

If you have any questions please do not hesitate to contact me at my office.

PERSONAL WATERCRAFT RENTAL SERVICES REGULATIONS

- Personal Watercraft shall mean a vessel propelled by a water jet pump or other machinery as its primary source of motor propulsion which is designed to be operated by persons sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel, as defined in 323 CMR 4.02, Definitions.
- Personal Watercraft are considered a Class "A" motorboat requiring them to obey all local, state and federal laws, regulations and rules of operation.
- Personal Watercraft rental companies must have a chase vessel on the water to assist customers at all times.
- All rented Personal Watercraft must be marked in a manner, to be determined by the Harbormaster, identifying the watercraft as a rental and identifying the company leasing the watercraft. The chase vessel must be marked in the same manner.
- All rental services must provide the Harbormaster with company information of: owners and employees names, addresses, phone numbers, emergency phone numbers, licenses, areas of operation and launching, and a copy of registrations for all vessels. *Note: Operational plans are also requested.*
- Solicitation of customers at any Town of Yarmouth public boat ramps, town way or beach is prohibited.
- Personal Watercraft rental company employees must provide a copy and explain in detail all pertinent Federal, State and Local regulation to include: 323 CMR 4.00, The Operation of Personal Watercraft; MGL Chapter 90B.8, 9A and 9B; and Town of Yarmouth General Harbor Regulations: A, D and E.

Town of Yarmouth General Harbor Regulations

A. SPEED (214.1)

1. Limit 6 M.P.M., NO WAKE, commencing with (a) buoyed channel (#4 to buoy #30) for Bass River (in all Yarmouth waterways and protected channels).
2. EXCEPTION: Designated ski and speed zones ONLY!
3. Motorboats shall be operated NOT MORE than headway speed under bridges or around bends with obscured views (enough speed to maintain steerage, but never more than 6 M.P.H).

D. BERTHING (214.4)

1. All vessels entering the Town of Yarmouth waters are subject to the direction of the Harbormaster office which should be consulted before anchoring or tying up to any town owned facility or mooring.

E. NEGLIGENT OPERATIONS (214.5)

1. No person shall operate any motorboat or any other vessel in a reckless or negligent manner so as to endanger the life, safety or property of another.
2. No person shall operate any vessel while under the influence of any intoxicating liquor, narcotic drugs, barbiturates or marijuana.

MGL Chap. 90B and 323 CMR

Highlighting:

❖ Personal Watercraft (PWCs)

- No one may operate a personal watercraft in Massachusetts who is less than 16 years of age.
- Before operating, youth 16 and 17 years of age must obtain a state-issued safety certificate, endorsed for personal watercraft.
- The safety certificate will be issued after the successful completion of a state-approved boating safety course and a personal watercraft focused addendum.
- Riders must wear a type 1,2, or 3 lifejacket.

❖ Area of Operation

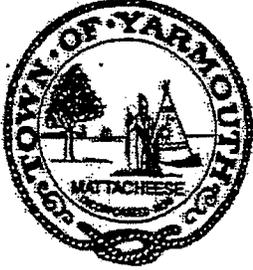
- Operators are prohibited from operating to within 150 feet of shorelines used as swimming areas.
- Operators are prohibited from operating to within 75 feet of floats or markers that designate swimming areas.

❖ Headway speed: defined as **the minimum speed a vessel may be operated to maintain steerage way, but not to exceed 6 miles per hour (NO WAKE SPEED).**

- Don't operate your boat at more than headway speed when within 150 to 300 feet of shorelines used as swimming areas.

- Use headway speed when within 150 feet of a marina, ramp, raft or float, moored or docked boat, watercraft or swimmer.
- Use headway speed within 150 feet of a swimmer.
- Come to headway speed when your vision is obscured by a bridge, a bend in the waterway, or for any other reason.
- Use headway speed when operating in a channel, unless channel markers say higher speeds are allowed.
- Make sure that your wake doesn't rock other boats, docks, etc. **Your wake is considered a part of your boat, and you are responsible for any damage or injury caused by your wake.**
- It's illegal to jump the wake or cross unreasonably close to another boat.
- Personal watercraft cannot tow anyone or anything.

RECEIVED
VIA E-MAIL



TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4451

Telephone (508) 398-2231 ext. 1240, Fax (508) 760-3472

BOARD OF HEALTH

MEMORANDUM

TO: Zoning Board of Appeals (ZBA)

FROM: Carl E. Lawson, Jr., Hazardous Waste Inspector **CL**

SUBJECT: ZBA Petition Number 4807
Gold Coast Corp. Jet Ski Rentals

DATE: June 5, 2019

The Health Office has reviewed the submittals from Gold Coast Enterprises regarding the permitting of a Jet Ski rental operation based at Skippy's Marina, 17 Neptune Drive.

It is stated within the submittal that 21 gallons of fuel will be transported from a fuel station to the marina for fueling of the rental Jet Ski fleet with no fuel stored on premise overnight. There is no mention of other types of toxic or hazardous materials.

Provided that any gasoline leftover after the Jet Skis are fueled is stored inside a registered vehicle or registered trailer no Health Dept. license is required. Storage other than that noted previously is subject to the Board of Health (BOH) Regulation "Handling and Storage of Toxic or Hazardous Materials," effective May 2, 1990. Aspects of this regulation include, but are not limited to: Board of Health licensing for materials in excess of ten gallons liquid measure and 150% volume secondary containment of materials.

RECEIVED
VIA E-MAIL

Clark, Sandi

From: Huck, Kevin
Sent: Monday, June 3, 2019 3:24 PM
To: Clark, Sandi
Cc: Lawson, Carl
Subject: Petition #4807

Hi Sandi,

We have some questions.

How many Jet skis does the company have in operation on the river? How many Jet skis will be fueled at any given time. It is our expectation that no Gasoline will be stored at the docks. How is the Parasail boat fueled?

Capt. Huck



COMMONWEALTH OF MASSACHUSETTS
TOWN OF YARMOUTH
BOARD OF APPEALS

Appeal #4807

Date: July 10, 2019

Certificate of Granting of a Special Permit

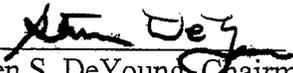
(General Laws Chapter 40A, section 11)

The Board of Appeals of the Town of Yarmouth Massachusetts hereby certifies that a Special Permit has been granted to:

17-18 Neptune Lane, LLC d/b/a Skippy's Pier 1 Marina
17 Neptune Lane, South Yarmouth, MA

Affecting the rights of the owner with respect to land or buildings at: **17 Neptune Lane, South Yarmouth, MA Zoning District: B1; Map & Lot#: 0032.118; Book/Page: 26584/273** and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and copies of said decision, and of all plans referred to in the decision, have been filed.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) and Section 13, 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 (20) 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 fee for such recording or registering shall be paid by the owner or applicant.


Steven S. DeYoung, Chairman



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Philip B. Gaudet, III
Town Clerk

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register