

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street
DONN B. GRIFFIN ROOM
TUESDAY, FEBRUARY 13, 2018
6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman, Lawrence Brophy; Vice-Chairman, James Atkinson; Joseph McParland; Mary Maslowski; Jim Joyce; Allan Peterson

BOARD MEMBERS REMOTE PARTICIPATION: David Harris; Allan Peterson (arrived at meeting at 6:45pm)

BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Town Planner, Charleen Greenhalgh, Police Chief David Guillemette, Cyndi Williams, Harwich Chamber of Commerce Director, Patricia Nadle, Virginia Branch, and Kathleen Weiner, Outer Cape Health Services, Bradford Malo, Joshua Michniewicz, Jason Michniewicz, and David Michniewicz, Coastal Engineering, Amy Banford, Board Secretary

CALL TO ORDER - 6:34 PM by Chairman, Lawrence Brophy with a quorum present.

Chairman Brophy announced the Recording & Taping Notification: As required by law, the Town may audio or video record the meeting. Any person intending to either audio or video record the open session is required to inform the Chair. He also announced that members Mr. Harris and Mr. Peterson are participating via conference call. Mrs. Greenhalgh announced that all votes will be done by roll call due to Board members participating remotely.

PB2017-32, Joshua A. & Jason D. Michniewicz, 45 Main St. Ext. Site Plan Review - 6:34 pm – Continued from 1/23/18

David Michniewicz, Coastal Engineering, and Rick Hamlin, the owner of the property were presenting.

Mr. Michniewicz presented details about the location of the lot in relation to adjacent properties. The property is located at 45 Main Street Ext. The back of the building would face the adjacent residential property so that the doors would be hidden from view. They will also landscape the rear property to further screen. Septic and storm water is in compliance with regulations. Parking will be available along the front and in the southwest corner of the property. Architectural plans for the metal building were provided. Police commented that the distance of the driveway was such that the access was safe and sight distance maintained, 300 feet. Driveway is not too steep for contractor vehicles.

Mrs. Greenhalgh provided the following comments:

1. The use as stated is “Industrial”. For parking requirements the applicant has used “Light industry and manufacturing” to determine the parking required (1 space per employee, maximum shift, plus 1 space per 2500 sf.). Based on this, no other more intensive uses

would be allowable at this location without further review and approval of the Planning Board.

2. The parking table provides the need for 19 spaces total, including one van accessible space; the plan provides for 13 spaces, including one van accessible space, with the remaining spaces within each of the six bays for a total of 19 spaces on site.
3. No dumpster has been shown on the plan; however there is a *Trash Storage and Disposal Note* indicating that “Unit occupants shall store their trash inside their units & dispose of properly when required.”
4. After reviewing Google Earth, there are no driveways within 100’ of the proposed driveway for the project.
5. No areas on the site have been designated as “outdoor storage”, as such there should be no outdoor storage of materials (gravel, soil, wood chips, etc.) or equipment, including vehicles and machinery.

On the phone, Mr. Harris asked about landscaping for the steep slope. Mr. Michniewicz said that the plant material would comply with Conservation regulations. They have had one meeting with Conservation so far, with another meeting to be scheduled. They will be transplanting existing blueberries. Conservation wants the retaining wall on the south side to be extended.

Ms. Greenhalgh suggested that the Board vote to continue until a revised plan can be presented with the extended retaining wall and outdoor equipment storage location. Mr. Atkinson agreed, however Mr. McParland did not think the required changes should warrant a continuation. There was some additional discussion among the Board members regarding the Motion.

Motion made by Mr. McParland to continue the hearing for PB2017-32, Joshua A. & Jason D. Michniewicz, to no earlier than 6:30pm on 2/27/2018 for the following reasons: a revised site plan is required. Seconded by Mr. Atkinson. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Peterson, Harris, Joyce and Ms. Maslowski.

**PB2017-33, Stephen D. & Nancy Morris, 11 Oliver Snow Road, Accessory Apartment
Special Permit – 6:45pm; continued from 1/23/18**

Dan Speakman presented an overview of the application. Nancy Morris, owner, and Michael Cupoli were also present. The property is located at 11 Oliver Snow Rd. The proposal is for the construction of a 725 square foot one bedroom detached accessory apartment with a garage. This petition complies with all zoning requirements. They have requested all appropriate waivers.

Ms. Greenhalgh and all other staff recommends approval of all waivers. The main condition is that the basement not be habitable space.

On the phone, Mr. Harris asked if the property will be rented seasonally. Ms. Morris responded that it will be rented annually to Mr. Cupoli.

Motion made by Mr. McParland to close the Public Hearing at 6:50pm. Seconded by Mr. Joyce. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to adopt the following Findings of Fact:

1. The parcel(s) is in the R-R zoning district.
2. The apartment unit is not greater than 900 SF (being 725± SF).
3. It is the owner's intent to continue to reside and occupy the main dwelling on the property.
4. Minimum requirements have been met for setbacks, area and bulk.
5. The driveway and garage will provide sufficient off street parking which meets the minimum requirements.
6. The application as submitted does not adversely affect local traffic or create traffic hazards (§325-51.H.(2)).

Motion seconded by Mr. Atkinson. Vote by roll call: 7-0-0. Members voting: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve waivers and/or modifications from Commercial and Residential requirements of the Rules and Regulations as the requirements for a submittal are not pertinent to a residential structure i.e. landscape plans, etc. Motion seconded by Mr. Atkinson. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve with the following conditions:

1. The owner shall maintain occupancy in one of the units as required by Town Code.
2. The basement shall not be used or improved for habitable living space.
3. The approval shall be conditioned to the Board of Health requirement for a septic system permit to expand leaching and add another septic tank as proposed.
4. The Special Permit decision shall be recorded at the Registry of Deeds.
5. Any changes to the plan shall be subject to further Planning Board review.

Motion seconded by Mr. Atkinson. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

PB2018-01, Outer Cape Health Services, 710 Route 28 – Site Plan Review and Special Permit for Medical Center – 7:00

Chairman, Lawrence Brophy recused himself because he is on the OCHS Board of Directors.

Vice Chairman, Jim Atkinson opened the hearing by reading the Legal into the record. "The applicant seeks approval of a Site Plan Review Special Permit with waivers with certain site improvements and a Use Special Permit for structures greater than 7,500 SF to establish a Medical Clinic / Office. The application is pursuant to the Code of the Town of Harwich §325-51 and -55. The property is located at 710 Route 28, Map 15, Parcel K2, in the C-V & R-R Zoning Districts."

Attorney Cox presented the application and plans for the application. Several other involved with the project were present and available to facilitate with the presentation: Patricia Nadle, BSN, MEd CEO; Ed McManus, VP, Board of Directors; Virginia Branch, Project Architect; and Brad Malo, Project Engineer.

Ms. Cox's summary of reasoning was accompanied with a visual PowerPoint presentation. Following the overview of the proposal, Ms. Cox noted that they had met informally and had preliminary reviews with several Town of Harwich Departments to address possible issues. She believes all the issues have been satisfactorily addressed. A review was completed with the Cape Cod Commission as well, which found that a Mandatory Referral as a Development of Regional Impact (DRI) was not required.

Ms. Nadle spoke to the importance of the project to the community at large and the efficiency of having a location that included specialized services such as behavioral health, pharmacy and lab services all under one roof.

Ms. Branch described the projects architectural component and focus to create a clear visual entrance. She described the project as essentially an interior project to allow for the proposed medical use, in addition to flood mitigation and accessibility improvements.

Ms. Cox spoke to the requests that they are making. They have filed for Site Plan Review and Use Special Permit for structures greater than 7,500 SF to establish a Medical Clinic / Office. They are also seeking waivers as requested based on the fact that the site is existing and additional information is not necessary.

Ms. Cox spoke to the parking usage study that was completed. There was discussion of various considerations such as the peak times of use, and flexible schedules for employees.

Ms. Greenhalgh spoke to the 49 letters of support received from residents and read one of them into the record. She then ran through the comments from Building, Engineering, Fire, Conservation, Police, Board of Health, and Highway departments. She expressed appreciation of the amount of communication they have made with the town departments.

Mr. Atkinson asked if the building will remain on the tax rolls of the town. Ms. Cox replied affirmatively. Mr. Atkinson spoke to his main concern about parking and the potential use of the parking spaces across the street. He suggested that they could research the use of some other underutilized parking lot on Route 28.

Ms. Cox submitted correspondence from Tom Kennedy, one of the owners. He has offered the use of his lot about a mile down the street.

Mr. McParland pointed out that it would not be legal for them to restrict the public from parking in the public parking lot across the street at Saquatucket Harbor. Mr. McParland asked why no access was allowed from Hoyt Rd. He also asked for clarification on where Mr. Kennedy's business is located.

Mr. Joyce stated his support for the proposal and also asked how long it took them to outgrow their current location on Chatham Rd. Ms. Nadle said it took about 3-4 years.

Mr. Harris asked for clarification about the extra space on the first floor that would be undeveloped. There was some discussion of whether or not they should consider developing that

space at the same time as the current project. Ms. Nadle stated that this new property triples their size, but they want to be careful not to overbuild. Mr. McManus spoke to his support of the project.

The Board took a brief recess at 8:10pm to allow Ms. Cox and Mrs. Greenhalgh to draft an additional condition about restricting OCHS employees from parking at the Harbor across the street. The meeting was reopened at 8:22pm.

Motion made by Mr. McParland to close the Public Hearing at 8:24pm. Seconded by Mr. Peterson. Vote by roll call: 6-0-0. Members voting: Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve the following waivers as requested based on the fact that the site is existing and additional information is not necessary:

1. Drainage calculation requirements.
2. Designated loading area requirement
3. Drainage plan requirement
4. Lighting details
5. Parking lot landscaping requirements for the new parking spaces
6. Overall parking waiver to allow 96 parking spaces where a demonstrated need for 114 exists.

Motion seconded by Mr. Joyce. Vote by roll call: 6-0-0. Members voting: Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to adopt the following Findings of Fact:

1. The structure and parking are within the C-V and R-R districts and fronts along Route 28.
2. Route 28 provides for adequate access for the proposed use. As the rear access is for police and fire emergency vehicles only.
3. The access as proposed meets the minimum standards of the zoning code.
4. The plan provides for efficient and safe disposal of surface water.
5. The use is consistent with the Zoning Code and will not adversely affect the neighborhood or overall public good.
6. With adequate and appropriate signage there will be no nuisance or serious hazard to vehicles or pedestrians.
7. The waivers requested do not substantially derogate from the purpose and intent of this bylaw.
8. The site is an appropriate location for such use.
9. The applicant has committed to incentives to its employees to rideshare and/or take alternative means for transportation to work and will explore off-site parking options.
10. The applicant has demonstrated that 114 parking spaces would be appropriate for the proposed uses for each floor of the building (medical on the first floor and office use, with little to no visitors on the second floor) and the fact that this will not be an urgent care facility.
11. The proposed parking area, with waivers, will provide sufficient off street parking and as such, there will be no nuisance or serious hazard to vehicles or pedestrians and provides adequate lighting for the use.

Motion seconded by Mr. Joyce. Vote by roll call: 6-0-0. Members voting: Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve with conditions a Site Plan Review Special Permit with waivers with certain site improvements:

1. The Special Permit shall comply with all Board of Health and Conservation Commission requirements and reviews.
2. All signage must conform to the Zoning Code.
3. Any changes to lighting may require additional review and must conform to the Zoning Code.
4. The special permit issued by the Planning Board for a Food Truck Restaurant, Take-out shall be null and void.
5. Any changes to the site plan or changes or expansion of use shall be subject to further Planning Board review and approval.
6. Outer Cape Health Services agrees that employee parking shall not be permitted at the Municipal parking lot at Saquatucket Harbor.

Motion seconded by Ms. Maslowski. Vote by roll call: 6-0-0. Members voting: Members voting: Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve a Use Special Permits for structure with a gross floor area of 7,500+ Square Feet. Motion seconded by Mr. Joyce. Vote by roll call: 6-0-0. Members voting: Members voting: Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

At this time Mr. Brophy rejoined the meeting

Zoning Amendment Public Hearing – Marijuana – 8:30 pm

Mr. Brophy opened the Public Hearing and Ms. Greenhalgh proceeded to go over the proposed Amendment.

To see if the Town will vote to amend the Town's Zoning Bylaw, Article V, Use Regulations, §325-14 Supplemental Regulations, to include a new paragraph "R" that would provide as follows; further to amend Article II §325-2 Word usage and definitions to include, "Marijuana Establishment – Recreational", as follows; and further to amend Article V, Use Regulations, §325-13, Table of Uses, D. Paragraph IV, Commercial Uses and Attachment 1 – Table 1 by inserting said use into the Use Table, as follows:

§325-14 Supplemental Regulations

R. Marijuana Establishment – Recreational are subject to special permit review pursuant to §325-51 and site plan review pursuant to §325-55. Recreational marijuana establishments shall be prohibited as an accessory use in all zoning districts. Recreational marijuana establishments are subject to the following standards:

1. *Recreational marijuana establishments shall be located in stand-alone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses.*
2. *A minimum separation of 1000 feet, measured between lot lines, is required between recreational marijuana establishments and state-certified public or private schools, state-licensed day care centers, public park, recreation facilities and/or religious facilities.*
3. *No building permit for a recreational marijuana establishment shall issue until the applicant has executed a Host Community Agreement with the Town pursuant to G.L. c.94G, §3(d).*

Recreational marijuana establishments shall be subject to the zoning moratorium adopted as §139-37 of this Bylaw. Applicants may not apply for a special permit for recreational marijuana establishments prior to January 1, 2019.

Ms. Greenhalgh explained that the proposed Amendment would in no way restrict anyone's right to possess, grow, and/or use legal amounts of marijuana in their own home. It only affects retail sales of recreational marijuana. It would be a Special Permit pursuant to §325-51 and site plan review pursuant to §325-55.

§325-2 Word usage and definitions

MARIJUANA ESTABLISHMENT - RECREATIONAL

A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in G.L. c.94G, §1.

§325-13, Table of Uses, D. Paragraph IV, Commercial Uses and Attachment 1

Use		RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	W R
<i>Paragraph IV – Commercial Uses</i>														
46	<i>Marijuana Establishment - Recreational</i>	-	-	-	-	-	-	SP	SP	SP	-	-	-	P

Ms. Greenhalgh noted that that there is a typo in the proposed amendment, the "SP" in the use table should be "S". Mr. McParland asked about medical marijuana. Ms. Greenhalgh explained that medical marijuana is not specifically banned in Harwich, (it was voted down at Town Meeting previously), but Harwich has not been designated by the State to be allowed a medical marijuana dispensary, per Mr. Atkinson.

Mr. Brophy asked for any public input. Hearing none; **Motion made by Allan Peterson to close the Public Hearing at 8:43pm. Motion seconded by Ms. Maslowski. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.**

That due to a typographical error, **Mr. McParland made a motion to change the "SP" in §325-13 - Use Table to "S" and further to add additional language at the end of §325-14 Supplemental Regulations, subparagraph R.2, as follows "or any facility in which children**

congregate.” Motion seconded by Mr. Joyce. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Motion made by Mr. McParland to approve the proposed article as amended and recommend the article to the Town Meeting. Motion seconded by Mr. Joyce. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Minutes for 1/9/2018, 1/23/2018

Motion made by Mr. McParland to table the approval of the minutes until the next meeting. Motion seconded by Mr. Atkinson. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Proposed Zoning Amendments for Green Communities – 8:46pm

Ms. Greenhalgh spoke to the 5 requirements to make the town eligible to be designated as a Green Community. She then presented a proposed zoning amendment that would create As-of-Right Large-Scale Ground Mounted Solar Photovoltaic, and related amendments.

Larry Cole, member of the community and of the Energy Committee, spoke to the details of the existing Ground Mounted Solar Photovoltaic farm. It generates far more power than the town uses and we benefit from the savings on the power that is generated as well as the metering credits. It could be expanded to something called a Solar Garden, which allows private citizens or businesses to connect. Ms. Greenhalgh explained that the \$150,000 state grant could only be used for projects that reduce energy use, such as fuel efficient town vehicles, not for projects that generate power such as building a Ground Mounted Solar Photovoltaic array. She also pointed out that currently only Provincetown, Wellfleet, Truro, and Mashpee are designated as Green Communities on Cape Cod.

Motion made by Mr. Brophy to approve the proposed zoning article as amended and to send it to the Board of Selectman for referral back to the Planning Board so as to comply with the provisions of MGL C.40A, Section 5. Motion seconded by Ms. Maslowski. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Briefings and Reports by Board Members

James Atkinson: The Community Preservation Committee has voted on the recommended applications that will be funded and sent to Town Meeting.

Adjournment

Motion made by Mr. McParland to adjourn at 9:02 PM. Seconded by Mr. Peterson. Vote by roll call: 7-0-0. Members voting: Brophy, Atkinson, McParland, Maslowski, Peterson, Harris and Joyce.

Minutes transcribed and respectfully submitted by Amy Banford, Board Secretary.

Adopted: March 27, 2018