Harwich Planning Board

Town Hall, 732 Main Street, Harwich, MA – Griffin Room

**MINUTES**

**Tuesday, November 28, 2023 – 6:30 PM**

This meeting of the Planning Board was held in-person and was also available via the GoToMeeting remote access “app”.

Members present: Mary Maslowski, Ann Clark Tucker, Emily Brutti, Harry Munns and Allan Peterson.

Members absent: Duncan Berry and Craig Chadwick

Staff Present: Christine Flynn and Shelagh Delaney

Members of the Public Present: Patti Smith, Christopher Senie, David Crosbie and Joe Kahn

Ms. Maslowski acted as Chair due to the absence of both Duncan Berry and Craig Chadwick. She opened the meeting by reading the following notice and asking all to join in the Pledge of Allegiance.

1. **Recording Notice; Call to Order**

*According to MA Law anyone who intends to record the meeting must first notify the Chair who will then inform the other attendees at the start of the meeting.*

1. **Pledge of Allegiance**
2. **Public Hearings**

**Case # PB2023-32 (Continued from 10.24.23) The Cape Cod Young Men’s Christian Association Inc. (YMCA Cape Cod) and Cape Cod Technical High School District (CCTHS), Owner,** through their agent **Marian Rose, Esq.** seek a Site Plan Review Special Permit to redevelop a portion of the CCTHS campus known as “The Gilmore House” for limited early childhood educational purposes. The application is pursuant to the Harwich Zoning Bylaw Sections 325-51 and 325-55. The property is located at 351 Pleasant Lake Ave., Map 82, Parcel A1 in the Residential Low (RL) Zoning District.

Ms. Maslowski read the case into the record.

Attorney Marian Rose of Singer and Singer in Dennisport introduced herself and presented the case. She noted that the continuance from October 24th allowed her to get more detailed landscape plans (dated 11/9/2023) which were supplied to the members. This updated plan also shows a few changes to the concrete pad for the dump site and a reduction of handicap parking from 2 spots to one. She also referred to a Memo written by Amy Usowski, the Conservation Agent, saying that the builders will need to install straw wattles at the 100’ buffer zone line to protect the wetland. Attorney Rose said that the Applicants were amenable to this condition.

Attorney Rose also noted that it was pointed out to her at the last meeting that the application needs to be considered a Modification to the Site Plan Special Permit granted to the Cape Cod Regional Technical High School as Case PB2018-18. To that end, she referred to the changes for the Gilmore House already brought to the Board via testimony and documents and asked if the Board had any questions. They did not nor were there any public comments.

Mr. Peterson moved to close the public hearing with a second by Ms. Clark Tucker. The Board voted in favor. 5-0-0.

Mr. Peterson then moved with a second by Ms. Clark Tucker that the Board adopt the following findings of fact:

1. One of the Applicants is the property owner, Cape Cod Regional Technical High School District (CCRTHS) **and** the other is the lessee, Cape Cod YMCA, Inc. (CCYMCA).
2. The address of the subject property is 351 Pleasant Lake Av., Harwich, MA (Map 82 Parcel A1) and is approximately 67 acres located within the RL Zoning District.
3. The specific building on the property, known as the “Gilmore House” has been leased in the past from CCRTHS by the CCYMCA for early childhood education purposes.
4. The CCYMCA proposes to alter the interior of the Gilmore House to meet state standards for childcare and early childhood education and to minimally alter the exterior area with an accessible ramp, new exit doors, expanded staircase and lighting. Parking will be enhanced and a fenced playground will be built.
5. The Applicants applied to the Planning Board for a MODIFICATION of a Site Plan Review Special permit (PB2018-18) pursuant to Section 325-55 of the Harwich Zoning Bylaw.
6. The Modification application was filed with the Town on September 26, 2023.
7. Subject to the conditions of approval stated herein, the application and site plan, as modified, conform to Sections 325-51 and 325-55 of the Harwich Code.
8. The Planning Board held a public hearing on the application October 24, 2023 and voted to continue the hearing until November 28, 2023. Additional testimony was heard on 11.28.23.
9. Plan documents (Landscape Plans) were updated on 11.9.23.

The Board voted in favor. 5-0-0.

Mr. Peterson then moved with a second by Ms. Clark Tucker that the Board grant the requested modification to Site Plan Special Permit PB2018-18 for 351 Pleasant Lake Avenue in order to re-use and renovate a portion of the Cape Cod Technical High School (CCTHS) commonly known as the “Gilmore House” and surrounding areas which it has leased from the CCTHS in order to develop the structure as an early childhood education and childcare center, according to plans and testimony submitted.

The following conditions apply:

* The proposed re-development shall be in accordance with the site plan referenced in the application materials above.
* This decision shall run with the property.
* This decision shall not be effective until it is recorded with the Barnstable Registry of Deeds.
* Changes to the site not authorized under this decision shall require further Planning Board review and modification to this decision.
* The builders must install straw wattles at the 100’ buffer zone line to protect the wetland.
* The applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.

The Board voted in favor. 5-0-0.

**Case # PB2023-34 Karen & George Oliver, through their agent, Kent Drushella** have applied for a Special Permit for a Two-Family Dwelling in order to build a 2nd residential structure connected by a roof or series of roofs.  The application is pursuant to the Code of the Town of Harwich c.325-51 N, as directed by MGL c. 40A Section 9. The property is located at 86 Miles St., Assessor’s Map 14 Parcel B9. The property is located in the RL Zoning District.

Ms. Maslowski read the case into the record.

There is a written request for Case PB2023-34 to continue until no earlier than 6:30 PM on Tuesday, January 9, 2024.

Attorney Charles Sabatt of West Yarmouth introduced himself as the representative of the Applicants, Karen and George Oliver and noted that he had been in contact with the Attorney Dalmas, representing the opponents of this plan and worked with her on a mutually acceptable date for the continuance.

Ms. Maslowski asked for a motion to allow for the requested continuance. Mr. Peterson moved and Ms. Clark Tucker seconded the motion to continue Case PB2023-34 until no earlier than 6:30 PM on Tuesday, January 9, 2024. The Board voted in favor. 5-0-0

**Case # PB2023-35 Rowoliver Nominee Trust, David Crosbie & Steven Farnsworth, Trustees,** through their agent**, Attorney Bejamin E. Zehnder** seek a Site Plan Review Special Permit to develop a portion of the property as a self-storage unit and a Change of Use from a Two-family to a Multi-family Usepursuant to the Harwich Zoning Bylaw Sections 325-51 and 325-55. The property is located at 481 Depot Street, Map 36, Parcel B1 in the IL and RR Zoning Districts.

Ms. Maslowski read the case into the record.

Attorney Benjamin Zehnder of Orleans introduced himself and the owner, David Crosbie and presented the case. He started by saying that this case is unusual in that the property exists in 2 different zoning districts, Rural Residential (RR) and Industrial Light (IL). He added that storage is permissible in the IL Zone and the Multi-Family Residential Use is permissible in the RR Zone. The plan is to change the existing 2-family use of the dwelling unit into a 4-unit, multi family dwelling based upon Section 325-51Q and Section 325-51. The Applicants are looking for a waiver under Section 325-55 (F) from strict interpretations of Section 325-51 Q(8) that 10% of open space be devoted to recreation. He argued that the proposal is fairly small in scale and close to other areas to recreate. Mr. Munns later added that the language in the Code does not appear to require recreation space but rather says that the Board ***may*** require an area of recreation.

Attorney Zehnder spoke in detail about the proposed 3 storage buildings noting that although there is presently no plan for landscape screening between the residential portion of the proposal and the storage buildings, all entrances to the metal buildings will be on the side opposite the “house”. There will be two 70’ x 30’ buildings and one 60’ x 12’ building with a designated parking spot for the employee/manager. Parking for the residential structure will be 8 additional spots around the property.

Mr. Munns said, “So the Town ends up gaining 2 more rental units?” Attorney Zehnder answered in the affirmative with a breakdown of units as follows: One (3) bedroom apartment, one (2) bedroom apartment and two (1) bedroom apartments.

Christine Flynn noted that the Applicants were appearing in front of the Zoning Board of Appeals on the following evening and suggested that the Board continue the Public Hearing until after there is a finding by the Zoning Board of Appeals.

Mr. Peterson moved with a second by Ms. Brutti that Case **# PB2023-35 Rowoliver Nominee Trust, David Crosbie & Steven Farnsworth, Trustees** be continued until no earlier than 6:30 PM on Tuesday, January 9, 2024.

The Board voted in favor. 5-0-0.

**Case # PB2023-36 Joe & Wendy Kahn,** through their agent and architect**, Paul Muldoon** seek a Special Permit with waivers to renovate an existing detached residential structure with a garage and 1 bedroom to a detached residential structure with 2 bedroomspursuant to the Harwich Zoning Bylaw Sections 325-51 and 325-55. The property is located at 1388 Halls Path, Map 106, Parcel G6-4 in the RR and DWRPD Zoning Districts.

Ms. Maslowski read the case into the record.

Paul Muldoon of Muldoon Architects LLC introduced himself as representing Joe & Wendy Kahn and presented the case. He reiterated portions of the application saying that the proposal is to convert an existing detached residential structure with a garage and one bedroom into a detached residential structure with 2 bedrooms, a kitchenette and 3 bathrooms. This structure will be for family overflow and will not be rented at all. The current septic system has capacity for 7 bedrooms. The end product of the project will have only 6 bedrooms. Mr. Muldoon then spoke about the memo that was submitted by Meredith Ballinger of the Health Department saying that the septic would need to be adjusted to a two-tank system for an Accessory Dwelling Unit (ADU) with a full kitchen. The project is not for the creation of an ADU and will not have a full kitchen. The Board of Health has communicated to the Planning Board Staff that the current 7-bedroom septic system is adequate and there is adequate acreage to meet Harwich’s Drinking Water Protection District, DEP Zone II Regulations.

Ms. Delaney read the Staff review.

Mr. Peterson said that he knows the property well and approves of the proposal.

There was no further staff discussion and no comments from the public.

Mr. Peterson then moved with a second by Ms. Brutti to close the public hearing.

Mr. Peterson moved and then withdrew the motion to accept the requested waivers. He went on with a motion to adopt the following findings of fact:

1. The property is located at 1388 Halls Path, Harwich; Assessor’s Map 106-G6-4 in the RR (Residential Rural) and the DEP Zone II (Drinking Water Protection District).
2. The owners of the property are Joseph and Wendy Kahn;
3. The lot size is 3.072 acres;
4. The existing garage building has a bedroom above the garage.
5. The project will renovate and repurpose the garage building so that it will be an accessory building with 2 bedrooms, a great room and 3 bathrooms.
6. The existing septic system is designed for 7 bedrooms. The total bedroom count for the property will be 6.
7. The property has sufficient space for the required parking.
8. The use as developed will not adversely affect the neighborhood.
9. The specific site is an appropriate location for such a use, structure or condition.
10. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Ms. Brutti seconded the motion. The Board voted in favor. 5-0-0.

Mr. Peterson moved with a second by Ms. Clark Tucker that the Board grant the requested waivers from the strict requirements of the bylaws for drainage calculations, topography and wetlands delineations, groundwater information and parking. The Board voted in the affirmative. 5-0-0.

Mr. Peterson then moved with a second by Ms. Clark Tucker that the Board grant the requested Special Permit for Case 2023-36 with waivers to renovate an existing detached residential structure with a garage and 1 bedroom to a detached residential structure with 2 bedroomspursuant to the Harwich Zoning Bylaw Sections 325-51 and 325-55 for the property located at 1388 Halls Path, Map 106, Parcel G6-4 in the Residential Rural and the Harwich Drinking Water Protection District, DEP Zone II.

This Special Permit is granted subject to the following conditions:

**Conditions of Approval**

* The proposed re-development shall be in accordance with the site plan referenced in the application materials above.
* This decision shall run with the property.
* This decision shall not be effective until it is recorded with the Barnstable Registry of Deeds.
* Changes to the site not authorized under this decision shall require further Planning Board review and modification to this decision.
* The applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.

The Board voted in the affirmative. 5-0-0.

1. **Public Meeting**

**Planning Board Business**

New Business:

1. Approval of Minutes from 11/14/23: Mr. Peterson moved and Ms. Brutti seconded the motion to approve the minutes as submitted. The Board voted in favor 5-0-0.

Mr. Peterson moved to adjourn the meeting at 7:30 PM. Ms. Brutti seconded the motion and the Board voted in favor: 5-0-0.

Authorized Posting Officer: Shelagh Delaney, sdelaney@harwich-ma.gov or 508-430-7511