**TOWN OF HARWICH**

**ZONING BOARD of APPEALS**

**WEDNESDAY, JANUARY 25, 2023**

**TOWN HALL – GRIFFIN ROOM
MINUTES**

**Board Members Present:**David Ryer, Al Donoghue, Chris Murphy, Timothy Bailey, Jonathan Beasley, Kenneth Dickson and John August.

**Board Members Absent:** Brian Sullivan, and Dave Nunnally,

**Call to Order**: Mr. Donoghue called the meeting to order at 7:00 PM, read the recording notice and introduced the members of the Board, noting the Chair was absent and he, as the clerk, will be acting as Chair for this meeting.

**II. PUBLIC HEARINGS**

Case No. **2022-40 Marybeth & Joel Rodman,** c/o Alexander Ranney of RBC Properties, LLC., 239 Scudder Ave, Hyannis, MA 02601, owner of the property located at **43 Sherwood Rd.**, Assessors’ Map 106, Parcel E1-28 in the RR Zoning District. The Applicant seeks a Special Permit, to alter the deck on a pre-existing non-conforming single family dwelling, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 10.

Alex Ranney, contractor, introduced himself as the applicant and discussed relevant portions of the case noting the current deck is in disrepair and dangerous. The proposed deck will be smaller and decrease the non-conformity by 3 ft. Mr. Ranney argued that the project will not be a substantial detriment to the entire neighborhood. He asked that the Board grant the requested Special Permit.

Members Voting: Joseph Beasley, Tim Bailey, Chris Murphy, David Ryer and Al Donoghue.

The Board discussed parking and timing of the project.

The Property Owner, Joel Rodman, introduced himself and thanked the Board for hearing the case.

No Public Comment.

Mr. Ryer moved to close the public hearing. Seconded by Mr. Murphy. Vote 5-0.

Motion carries; Public Hearing closed.

No further discussion from the Board.

Mr. Ryer moved that the Board grant a Special Permit to alter the deck on a pre-existing, non-conforming single family dwelling pursuant to the Code of the Town of Harwich, §325-54 as set forth in MGL Chapter 40A §6 for the property located at **43 Sherwood Rd.**, Assessors’ Map 106, Parcel E1-28 in the RR Zoning District.

Said grant and approval are subject to the following:

1. That for the life of the approved project, all construction vehicles will be parked on the Applicant’s property and not on any public street or road;
2. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Seconded by Mr. Murphy. Vote: 5-0-0. Motion carries; Special Permit granted.

Case No. **2023-01 Ripple Realty Trust,** owner of the property located at **338 Bank St**, Assessors’ Map 41, Parcel D1-3 in the CV & Historic Districts. The Applicant seeks a Special Permit, or in the alternative a Variance, to construct a foundation, finished second floor and deck onto a non-conforming structure, pursuant to the Harwich Zoning By-laws §§325-52 and -54(A) and MGL Chapter 40A Sections 6 & 10.

Members voting: Joseph Beasley, Tim Bailey, Chris Murphy, David Ryer and Al Donoghue.

Gregory Winston, Trustee of Ripple Realty Trust, introduced himself and discussed the history of the property.

Mr. Beasley asked where parking for the property will be located.

Mr. Winston responded the bottom of the property will be a garage and said he is going before Planning Board next month and requested a Site Plan Review Waiver.

The Board and Mr. Winston discussed the specifics of parking a potential difficulties of reversing onto Bank St.

Mr. Ryer said this case appears to require a Variance based on Bylaw section 325-54 A.7, as this structure is currently a barn and not a residential structure. He further stated that the applicant meets the hardship requirement for a Variance based on the unique historic nature of the structure and the benefit to the Town in preserving it.  He went on to state that the proposed project will not be a substantial detriment to the public good, nor nullify or substantially derogate from the purpose or the intent of the Bylaw.  He concluded that it was not likely that this property could be put to any reasonable use without the grant of a Variance by the Board.

The Board discussed the whether the applicant can fit all construction vehicles on this lot or the adjacent lot her owns.

Mr. Winston read a narrative about “Nelly”, the black horse who was depicted on the sign of the Barn and said he intends to keep that sign on the Barn.

Mr. Murphy discussed the deck within the setback which raised concerns if the case is granted as a special permit, and agrees it requires a variance.

Mr. Donoghue moved to close the public hearing. Seconded by Mr. Murphy. Vote unanimously in favor Motion carries; public hearing closed.

The Board agreed to grant a Variance and there was no further discussion.

Mr. Ryer moved that the Board grant a Variance to construct a foundation, finished second floor to a one bedroom, one bath apartment and add a deck onto a non-conforming structure pursuant to the Code of the Town of Harwich, §325-52 as set forth in MGL Chapter 40A §6 for the property located at **338 Bank St**, Assessors’ Map 41, Parcel D1-3 in the CV & Historic Districts.

Said grant and approval are subject to the following:

1. That for the life of the approved project, all construction vehicles will be parked on the Applicant’s property or the adjacent property owned by applicant, and not on any public street or road;
2. The applicant agrees to retain the Thatcher’s Forge sign on the front of the building on the Bank Street side that is in approximately the same location where it is presently situated.
3. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to M.G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Seconded by Mr. Beasley. Vote: 5-0-0. Motion carries; Variance granted.

**IV. NEW BUSINESS**

Mr. Donoghue read into record the MGL c 39, Sec 23D which allows a Board Member to miss one meeting when testimony is taken and still be able to vote provided the member has listened to a tape of the meeting or watched the video. Reviewing the minutes is not enough. The Member must file a signed affidavit and submit it to the Town’s Clerk office. He stated this is important to understand as the Board moves forward with 10 Kings Way and future possible affordable housing requirements. He requested David Ryer and Tim Bailey who were absent at the November meeting watch the video of 10 Kings Way and submit the required affidavit.

Mr. Ryer emphasized the importance of meeting attendance during any 40B cases that may be submitted to Board and how public interest can make the meetings longer than average.

**V. APPROVAL OF MINUTES**

Mr. Donoghue moved to approve the minutes for December 28, 2023. Vote unanimously in favor Motion carries; minutes approved.

The Board discussed Board procedures and the requirements of a Variance or Special Permit for the benefit of the new Board Members.

**VI. ADJOURN**

Mr. Donoghue moved to adjourn the meeting. Seconded by Mr. Murphy. Vote unanimously in favor. Motion carries; meeting adjourned.

Authorized Posting Officer: Lecia McKenna

Board of Appeals Recording Clerk