**TOWN OF HARWICH**

**ZONING BOARD of APPEALS**

**WEDNESDAY, JULY 27, 2022**, **7PM**

**TOWN HALL – GRIFFIN ROOM**
**MINUTES**

**Board Members Present**: G. Brian Sullivan, Al Donoghue, David Ryer, Chris Murphy, Timothy Bailey, Joseph Beasley

**Board Members Absent:** David Nunnally

**I. CALL TO ORDER:**

Meeting was Called to Order at 7:00 PM by Brian Sullivan, Chair. After opening remarks regarding the purpose of the meeting and reading of the Recording Notice, The Chair reviewed the reorganization of the Board and that our past Chairman, David Ryer had requested not to be nominated again for another term as Chair. Brian Sullivan thanked David for his over 12 years of service to The Board and the Town of Harwich including the last six years as Chairman, commenting that he performed his duties brilliantly and thanked him for remaining on the Board this term to ensure a good transition in leadership.

**II. PUBLIC HEARINGS**

Prior to the Chair calling the first case, Attorney William D. Crowell, Esq requested The Board to approve the continuance of Case No. 2022-26 22 Ocean Ave LLC, to the August meeting. The Board voted unanimously to approve the continuance and will schedule the case first on the August 31, 2022, meeting.

**Case No. 2022-25 Mackenzie F. & Meredith A. Gallant**, c/o William D. Crowell, Esq., 466 Route 28, Harwich Port, MA 02646, owner of the property located at 160 Easy St, Assessors’ Map 78, Parcel A2-36-38, in the RR Zoning District. The Applicant seeks a Special Permit, or in the alternative a Variance, to extend the porch within the setback of a pre-existing, nonconforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-52 and -54 and MGL Chapter 40A Sections 6 & 10

Attorney William Crowell introduced himself and discussed relevant portions of the case, noting the practitioners are seeking a Special Permit to expand the existing deck on the rear of the existing single-family residence. The existing deck is non-conforming at 15.3 feet from the rear lot line and the expanded deck will be 13.4 feet from said lot line with steps being 10.1 feet from the said lot line as shown on the Certified Plant Plan by TS Land Surveying, Inc. dated June 8, 2022, and undated Building and Elevation Plans submitted. Attorney Crowell further presented that in accordance with the findings of the Gale Case an existing non-conformity may be intensified by a Special Permit and that the expanded deck will not constitute a substantial detriment to the entire neighborhood. He asked that the Board grant the requested Special Permit.

Mr. Ryer commented that granting a Special Permit, in this Case, was consistent with the findings of the Gale Case and that the project would be an intensification of an existing nonconformity and not be a substantial detriment to the neighborhood.

Mr. Sullivan inquired about the setback requested to be approved of 13.4 feet and asked if approval should not be the 10.1 feet of the stairs from the rear lot line. There was discussion amongst the Board and Attorney Crowell. In consideration that steps are not considered in determining setback and further since the corner of the deck as well as the steps leading from the deck at the location of the steps are under 4 feet in height that the Special Permit could be approved based upon the 13.4 feet setback.

There was no public comment.

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

No further discussion from the Board

Mr. Donoghue moved that the Board grant a Special Permit to extend the porch within the setback of a pre-existing, nonconforming 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 **160 East St**, Assessors’ Map 78, Parcel A2-36-38, 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.

**III. APPROVAL OF MINUTES**

Mr. Beasley moved to approve the Minutes as amended for the June 29, 2022, meeting with minor adjustments. Mr. Donohue seconded. The Board voted unanimously in favor. Motion carries: minutes approved.

**IV. NEW BUISINESS**

Mr. Sullivan discussed he was unable to work yet on updated copies of the Zoning Code and indicated he hoped to have them ready prior to the next meeting, including full books for members that had yet to receive them.

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**V. ADJOURN**

Mr. Donohue moved to adjourned at 7:45pm. Mr. Murphy seconded. Vote unanimously in favor, Motion carries; meeting adjourned.

Authorized Posting Officer: Lecia McKenna

Board of Appeals Recording Clerk