

Harwich Planning Board Agenda  
Tuesday, September 22, 2020 – 6:30 PM

This meeting will be held VIA REMOTE PARTICIPATION ONLY.  
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**Access Code: 638-124-325**

**I. Call to Order** Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order.

**II. Public Hearings**

**A. Zoning By-Law Amendment Public Hearings.** Full copies of the proposed text and amendments are available on the Planning Board Website under “Agendas” at <https://www.harwich-ma.gov/planning-board>:

1. To see if the Town will vote to amend the Town’s Zoning Bylaw by establishing a new Article XXIV – West Harwich Special District and other related changes to §§325-2, -3 and -4, including a new Overlay Map.
2. To see if the Town will vote to amend the Code of the Town of Harwich as it relates to Multifamily.

**III. Public Meeting\***

**A. New Business:**

**Minutes:** September 10, 2020

**B. Old Business:**

**C. Briefings and Reports by Board Members**

**D. Announcement:** Town Meeting Saturday, September 26, 2020 10am at the Monomoy Regional High School Football Field.

**IV. Adjourn**

**PLEASE NOTE:** *We request all who are attending this meeting to please observe the same courtesies that would be observed if you were here in person. If you need to conduct unrelated business before your item on the agenda comes up, we request you mute your line – Use \*6 to mute and unmute your phone.*

\*Per the Attorney General’s Office – Boards/Commissions may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following “New Business”.

*Next Planning Board Meeting (Subject to Change) – Tuesday, October 6, 2020.*

*Requests for accommodations for any person having a disability can be made by contacting the Administration Office at 508-430-7513.*

Authorized Posting Officer: Elaine Banta, ebanta@town.harwich.ma.us or 508-430-7511

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*Memorandum from  
Charleen Greenhalgh, Town Planner  
Town of Harwich*

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## AGENDA ITEM I.A.1

September 14, 2020

To: Harwich Planning Board  
Cc: Harwich Board of Selectmen  
Joe Powers, Interim Town Administrator  
From: Charleen Greenhalgh, Town Planner  
Re: Zoning Amendment Public Hearing – West Harwich Special District

The public hearing for the West Harwich Special District zoning amendment is scheduled for Tuesday, September 22, 2020, not earlier than 6:30 pm.

On August 17, 2020 the Board of Selectmen voted unanimously to sponsor, support and refer the proposed zoning amendment relative to the West Harwich Special District to the Planning Board to begin the public hearing process pursuant to MGL c.40A, §5. This was forwarded to the Planning Board on August 18, 2020.

On August 18, 2020, the Board of Health voted unanimously to support the efforts and implementation regulations of the West Harwich Special District.

On August 19, 2020, the Conservation Commission voted unanimously to support the West Harwich Special District implementing regulation.

On September 4, 2020, the Cape Cod Commission voted unanimously to confirm that the proposed implementing regulations, the West Harwich Special District zoning bylaw, conforms with the guidelines set out for the West Harwich Special District established within Barnstable County ordinance 19-18 adopted on December 4, 2019.

The process for the hearing is as follows:

1. The hearing must be opened. Generally the legal notice is read into the record; however, due to the length the Planning Board can waive the full reading of the notice.
2. The proposal should be explained.
3. The hearing must allow for public comments.
4. The Planning Board should discuss and deliberate.
5. The Planning Board needs to close the public hearing.
6. The Planning Board must then vote on a recommendation to the Town Meeting. A positive motion is also preferable and the vote should be by rollcall.

***Example:* Move to approve the proposed zoning amendment for the West Harwich Special District and recommend it to the Town Meeting.**

HARWICH PLANNING BOARD  
PUBLIC HEARING NOTICE

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, September 22, 2020 not earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, 02645 to consider an amendment to the Harwich Zoning Codes as shown below. The meeting will be via REMOTE PARTICIPATION ONLY. Written comments may be submitted to the Planning Board at the address provided above or email the Town Planner, Charleen Greenhalgh, at [cgreenhalgh@town.harwich.ma.us](mailto:cgreenhalgh@town.harwich.ma.us). Anyone having interest in this zoning amendment is invited to access the meeting via GoToMeeting.com. Instructions regarding how to access and participate in the meeting will be posted on the Planning Board's Agenda page for the date of the meeting: <https://www.harwich-ma.gov/node/2451/agenda/2020>

Article \_\_\_\_: To see if the Town will vote to amend the Town's Zoning Bylaw, by establishing a new Article XXIV – West Harwich Special District, to include the following subsections:

- §325-144 Statutory Authority and Purpose
- §325-145 Intent
- §325-146 Applicability
- §325-147 Definitions
- §325-148 Permitted Uses
- §325-149 Special Permit Uses
- §325-150 Prohibited Uses
- §325-151 Continuation of Pre-Existing Non-Conforming Uses
- §325-152 Change, Alteration, Expansion of Pre-Existing Non-Conforming Uses and/or Structures
- §325-153 New Construction
- §325-154 Review Standards

and further

Amend §325-2 Word Usage and Definition, "Overlay District", add a new item G, as follows:  
"G - West Harwich Special District, see Article XXIV"

and further,

Amend §325-3 Division of Town into Districts, by adding "West Harwich Special District"

and further,

Amend §325-4 Maps, by adding Subparagraph F as follows:

- F. The West Harwich Special District established hereunder as shown on a map titled, "West Harwich Special District" dated July 27, 2020, prepared by the Cape Cod Commission, a copy of which can be found as an attachment to this chapter in the town's online Code and a copy of which is on file in the office of the Town Clerk.

The full text for the proposed amendments can be found on the Planning Website at <http://www.harwich-ma.gov/planning-board>.

In accordance with state law, this legal notice will also be available electronically at [www.masspublicnotices.org](http://www.masspublicnotices.org). The Town is not responsible for any errors in the electronic posting of this legal notice.

Duncan Berry, Chair,  
Cape Cod Chronicle 9/3/2020, 9/10/2020

**BELOW AND ON THE FOLLOWING PAGES PLEASE FIND A COPY OF THE FULL  
TEXT**

XXIV - West Harwich Special District

§325-144 Statutory Authority and Purpose

A. Statutory Authority

On December 4, 2019, the Barnstable County Assembly of Delegates adopted Barnstable Ordinance 19-18 and designated the district shown on a map labeled “West Harwich DCPC District Boundaries” prepared by the Cape Cod Commission (“DCPC Map”) as a District of Critical Planning Concern (“DCPC”), pursuant to Cape Cod Commission Act Section 11(d). The Town created the following implementing regulations to regulate the DCPC which shall be known as the West Harwich Special District.

B. Purpose

The purpose of the West Harwich Special District (“WHSD”), as designated in Barnstable Ordinance 19-18, is to preserve the significant historic and architectural resources in the area, to guide development to be consistent with the area’s unique character, to address safety and transportation impacts within the commercial zone on Route 28, and to promote small-scale businesses consistent with the area’s character.

§325-145 Intent

It is the intent of this bylaw to encourage and incentivize the retention, preservation, creative reuse, change of use, or expansion of use of existing historic structures to the extent possible.

§325-146 Applicability

A. District Boundaries

The boundaries of the West Harwich Special District (“WHSD”) are shown on a map entitled “West Harwich Special District” Map dated July 27, 2020, prepared by the Cape Cod Commission which is hereby made a part of this bylaw.

B. Relationship to Other Regulations

The provision in this Section (XXIV - West Harwich Special District) apply to all development within the WHSD. Other sections of the Town of Harwich Zoning Bylaw

also apply within this special district, except that where this Section conflicts with or differs from other sections of the Harwich Zoning Bylaw, this Section shall control.

C. Relationship to General Bylaws

All Chapters contained within the General Bylaws of the Town of Harwich, including but not limited to Article II Historically Significant Buildings, shall also apply to all development within the WHSD, as applicable.

§325-147 Definitions

**Historic Structures:** Those structures located within the boundaries of the WHSD and which are identified in the Town of Harwich Historic Properties Inventory List. Additionally, the following properties, identified by the street address and the Assessors Map and Parcel, are also determined to be Historic Structures for the purposes of this bylaw:

- 5 Route 28 – Map 10 Parcel N1-A
- 21 Route 28 – Map 10 Parcel N5
- 45 Route 28 – Map 10 Parcel S4
- 55 Route 28 – Map 10 Parcel U1-A
- 126 Route 28 – Map 11 Parcel B5
- 76 Route 28 Map 10 Parcel F7-2
- 66 Route 28 – Map 10 Parcel F5
- 22 Route 28 – Map 10 Parcel C6

**Principle Building Façade:** The front plane of the building wall closest to the road frontage, not including stoops, porches, or other appurtenances, and measuring at least 25 feet in length.

§325-148 Permitted Uses

The following uses are permitted within the WHSD; however, for some uses either a Staff Plan Review, pursuant to §325-152.A or a Site Plan Review Special Permit may also be required, pursuant to §325-55:

- A. Single-Family Dwelling
- B. Two-Family Dwelling
- C. Uses Accessory to a Single- or Two-Family Dwelling
- D. Bed and Breakfast
- E. Home Occupation
- F. Single family dwelling and accessory apartment
- G. Church or other religious use
- H. Non-profit Library, Museum or Historical Use
- I. Hotel
- J. Motel
- K. Hotel, Motel – Incidental Use
- L. Professional Offices, including Dental Offices and Blue Economy
- M. Municipal Uses

Additionally, the following uses are permitted in historic structures:

- N. Multifamily
- O. Retail sales
- P. Restaurant
- Q. Mixed-Use commercial/residential developments

#### §325-149 Special Permit Uses

For new construction or reuse or change of use of structure or building not identified as an historic structure, the following uses are conditionally allowed within the WHSD through the Planning Board as the special permit granting authority, provided the use does not conflict with the purpose of the district, and for some uses a Site Plan Approval pursuant to §325-55 and the provisions of §325-153 shall be required:

- A. Multifamily
- B. Retail sales, greater than 1,000 square feet of gross floor area and/or exterior space.
- C. Restaurant
- D. Mixed-Use commercial/residential developments

#### §325-150 Prohibited Uses

Any use not specifically allowed as of right or by Special Permit within this district are prohibited. Within this district, use variances shall be prohibited.

#### §325-151 Continuation of Pre-Existing Non-Conforming Uses

Any lawfully existing use of a structure or land that does not conform to the provisions of this bylaw may continue.

#### §325-152 Change, Alteration, Expansion of Pre-Existing Non-Conforming Uses and/or Structures

Notwithstanding the provisions of M.G.L Chapter 40A, and §325-54 of the Harwich Zoning Bylaw, lawfully established structures and uses in existence as of December 4, 2019 that do not conform to the WHSD District Wide Development Standards may be changed, altered or expanded in conformance with §325-154 Review Standards and Procedures.

- A. A pre-existing, non-conforming structure or use may change or expand up to 250 square feet of gross building footprint or exterior of building or site area through Staff Plan Review in accordance with the provisions of §325-154 provided it does not involve demolition of significant parts of an historic structure. Said application shall be made to the Planning Department and a written decision shall be rendered within 30-days of receipt. Said decision shall be consistent with the provisions of §325-154 and may be appealed to the Planning Board with written notice within 10-days. Said decision shall be lapse two (2) years from the date of issuance unless construction or operation under the approval has commenced.
- B. A pre-existing, non-conforming structure or use may change or expand up to 1000 square feet of building footprint or exterior of building or site area or undergo a change of use in accordance with §325-55.F Waivers, provided the following criteria are determined to be met:

1. There shall be no more than one curb cut on to Route 28 and where practical, a driveway connection (shared driveway) shall be provided to an adjacent property;
2. A landscaped area of at least 10 feet in depth shall be provided and maintained on the subject property along its road frontage. Any property with existing parking in front of the building will reduce the size of said parking area by at least 20% and will provide screening of said parking through landscape plantings and/or a low fence or wall. No expansion of parking in the front yard area is permitted;
3. The specific change or expansion shall comply with all dimensional standards in the WHSD enumerated in Section 325-154.A; and,
4. There shall be no demolition of an historic structure.

Said decision shall lapse two (2) years from the date of issuance unless construction or operation under the approval has commenced.

- C. A pre-existing non-conforming structure or use that proposes to change or expand more than 1,000 square feet of building footprint or exterior of building or site area requires Site Plan Approval pursuant to §325-55. The specific change or expansion shall comply with all dimensional standards in the WHSD pursuant to §325-154.A and B.

#### §325-153 New Construction

For new construction Site Plan Approval pursuant to §325-55 and all dimensional requirements of §325-154.A and B shall be required.

#### §325-154 Review Standards

A. Dimensional requirements.

1. Lots shall have frontage along Route 28. Adjacent parcels may be included provided that they are under the same ownership and are also located within the WHSD.
2. Setback requirements.
  - a. Front setback requirements for the Principle building façade shall be a minimum of 20 feet and maximum of 40 feet.
  - b. Side lot line setback shall be a minimum of 20 feet.
  - c. Rear lot line setback shall be a minimum of 20 feet.
  - d. Parking shall be permitted at the side, measured a minimum of 10 feet back from the Principle building facade on the property, or rear of the property.
  - e. Maximum site coverage shall not exceed 80%.
3. The maximum permitted height for new constructions shall not exceed 30 feet or 2 1/2 stories.
4. Minimum lot size shall be 20,000 square feet.
5. For properties containing and maintaining/reusing historic structures, the Planning Board or its designee may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.
6. The maximum length allowable for the Principle building façade is 50 feet and adjacent street-facing building facades shall be stepped back a minimum of 10 feet from the Principle building facade.

7. A maximum building footprint of 2,000 square feet for front street-facing buildings is allowable; and a maximum footprint of 3,000 square feet for buildings sited behind a front street-facing building is allowable.
- B. Parking, Driveway, Vehicular and Pedestrian Access Standards
1. Parking
    - a. Parking areas shall be visually buffered from all streets and adjoining residential uses by placing them behind frontage buildings and/or through the use of berms or natural features and/or plantings, using materials that shall be maintained for visual buffering a minimum of 50% and 75% of their effectiveness year-round, for streets and residential uses respectively. Parking shall also comply with the requirements of Article IX – Off Street Parking and Loading Requirements.
    - b. Shared Parking – The number of parking spaces required may be reduced for shared parking at the discretion of the Planning Board through Site Plan Review §325-55, provided such reduction does not shift a demand for parking onto public streets or any areas not equipped to handle such activity.
    - c. All other parking standards shall comply with Article IX Off-Street Parking and Loading Requirements; however, in no case shall a driveway width be greater than 24 feet.
  2. A driveway shall be limited to one per street frontage; however shared driveways are encouraged to limit the number of curb cuts onto Route 28. Driveways must be situated to provide for the optimal sight distance along Route 28. All driveway access shall provide for adequate service and emergency access. All driveway shall comply with §325-154.B.1.b. and c. above.
  3. Commercial and residential pedestrian access shall include a combination of walkways and landscaping. Such pedestrian access shall be provided from the streets providing frontage and/or access for the project as well as the drives and parking areas within the project. Pedestrian access routes shall be laid out to minimize conflict with vehicular routes, and where they intersect, the pedestrian route shall be clearly marked on the vehicular surface and when appropriate, with signage. Pedestrian access routes shall be lighted to provide adequate visibility for use in the dark, and in conformance with Article XXI Outdoor Lighting.

and further

Amend §325-2 Word Usage and Definition, “Overlay District”, add a new item G, as follows:  
“G - West Harwich Special District, see Article XXIV”

And further,

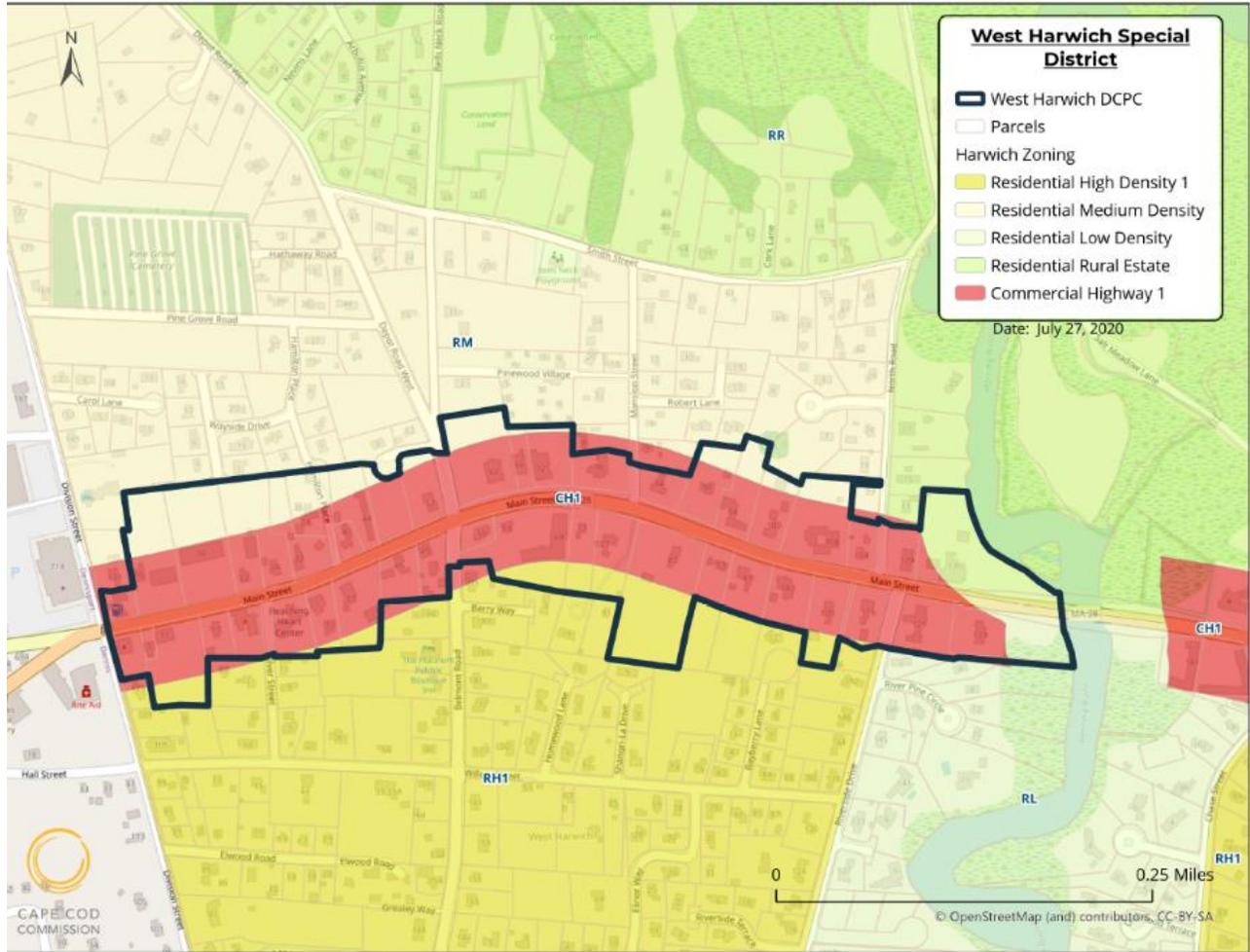
Amend §325-3 Division of Town into Districts, by adding “West Harwich Special District”

and further,

Amend §325-4 Maps, by adding Subparagraph F as follows:

- G. The West Harwich Special District established hereunder as shown on a map titled, “West Harwich Special District” dated July 27, 2020, prepared by the Cape Cod

Commission, a copy of which can be found as an attachment to this chapter in the town's online Code and a copy of which is on file in the office of the Town Clerk.



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*Memorandum from  
Charleen Greenhalgh, Town Planner  
Town of Harwich*

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## AGENDA ITEM I.A.2

September 14, 2020

To: Harwich Planning Board  
Cc: Harwich Board of Selectmen  
Joe Powers, Interim Town Administrator  
From: Charleen Greenhalgh, Town Planner  
Re: Zoning Amendment Public Hearing – Multifamily

The public hearing for the Multifamily zoning amendment is scheduled for Tuesday, September 22, 2020, not earlier than 6:30 pm.

On July 28, 2020, the Planning Board voted 7-1-0 (Messers McParland, Chadwick, Berry, Harris, Peterson and Rouse and Ms. Maslowski voting yay and Mr. Stoltz voting nay) to refer the proposed zoning amendments related to the Board of Selectmen so as to begin required public hearing process. The memo was sent to the Board of Selectmen on July 31, 2020.

On August 10, 2020 the Board of Selectmen voted unanimously to refer the proposed zoning amendments relative to Multifamily to the Planning Board to begin the public hearing process pursuant to MGL c.40A, §5. This was forwarded to the Planning Board on August 11, 2020.

The process for the hearing is as follows:

1. The hearing must be opened. Generally the legal notice is read into the record; however, due to the length the Planning Board can waive the full reading of the notice.
2. The proposal should be explained.
3. The hearing must allow for public comments.
4. The Planning Board should discuss and deliberate.
5. The Planning Board needs to close the public hearing.
6. The Planning Board must then vote on a recommendation to the Town Meeting. A positive motion is also preferable and the vote should be by rollcall.

***Example:* Move to approve the proposed zoning amendment for Multifamily and recommend it to the Town Meeting.**

HARWICH PLANNING BOARD  
PUBLIC HEARING NOTICE

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, September 22, 2020 not earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, 02645 to consider an amendment to the Harwich Zoning Codes as shown below. The meeting will be via REMOTE PARTICIPATION ONLY. Written comments may be submitted to the Planning Board at the address provided above or email the Town Planner, Charleen Greenhalgh, at [cgreenhalgh@town.harwich.ma.us](mailto:cgreenhalgh@town.harwich.ma.us). Anyone having interest in this zoning amendment is invited to access the meeting via GoToMeeting.com. Instructions regarding how to access and participate in the meeting will be posted on the Planning Board’s Agenda page for the date of the meeting: <https://www.harwich-ma.gov/node/2451/agenda/2020>.

**Article \_\_\_:** To see if the Town will vote to amend the Code of the Town of Harwich – Zoning as it relates to “Multifamily, (new text is shown in **bold**) as follows:

Within §325-2 – **Definitions**, amend the definition of “Bedroom” by deleting the existing definition and replace it with the following:

**BEDROOM: Any room used or intended to be used for sleeping purposes or as determined by State and/or Harwich Board of Health Regulations.**

Further, within §325-9 **Permitted uses**, amend the third sentence by adding the term “**multifamily,**” after “single-family,”

Further, within §325-13 - **Table 1 – Use Regulations, Paragraph I Residential Uses** amend within the table Item #8 Multifamily dwelling as follows:

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling (§325-51.Q)	<b><u>S</u></b>	<b><u>S</u></b>	<b><u>S</u></b>	<b>S</b>	<b>S</b>	<b>S</b>	<b><u>S</u></b>	<b><u>S</u></b>	-	-	<b>S</b>	<b>S</b>	<b>S</b>

Further, within §325-16 - **Table 2, Area Regulations**, delete within RH-2 and RH-3 Districts the following Use “Multifamily” and Minimum Required elements and within the MRL and MRL-1 Districts the following Use “Multifamily residential” and Minimum Required elements and add the following to the table:

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
<b><u>All Districts Where Permitted by Use Special Permit</u></b>	<b><u>Multifamily</u></b>	<b><u>40,000<sup>4</sup></u></b>	<b><u>150</u></b>	<b><u>Footnote<sup>5</sup></u></b>	<b><u>25</u></b>	<b><u>25</u></b>

40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to multifamily residence the existing lot size shall be allowable.

5Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new construction the front setback shall be 25 feet.

Further, within §325-16 – Table 3, Height and Bulk Regulations amend within the table by deleting the MRL and MRL-1 rows and adding the following:

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
<u>MRL</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>MRL – 1</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>In all Districts where Multifamily is Permitted by Use Special Permit</u>	<u>40</u>	<u>3 ½</u>	<u>=</u>	<u>80</u>	<u>Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940</u>

Further, within §325-18 Additional Regulations, make the following amendments:

Within **Paragraph E**, delete the term “multifamily,”

Delete in their entirety **Paragraphs H, I, J, L and M**.

Re-letter Paragraph “K” to “H” and delete in its entirety and add the following language: “No outside staircase shall be used to furnish primary access to any of the units in a hotel or motel.”

Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P” to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”

Further, within §325-20 Stories for human use or occupation, in the first sentence delete the words “multifamily dwelling,”

Further, within §325-39 Off-street parking schedule, Paragraph A, within the Residential Uses Parking Table, delete “multifamily” after “apartment,” and add a new “Multifamily” and parking spaces as follows:

Multifamily

1.5 per studio, efficiency or 1-bedroom unit  
2 per 2-bedroom unit or greater

Further, within §325-51 Special Permits, Paragraph D and subparagraph D(1) delete the words “multifamily dwelling,” and subparagraph D(2) in its entirety and add a new Paragraph Q as follows:

**Q. Multifamily Special Permit**

1. **The Planning Board shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.**
2. **A Site Plan Review special permit pursuant to §325-55 is also required.**
3. **All multifamily dwellings must be connected to a municipal water system.**
4. **A habitable room in a multifamily dwelling unit shall have a minimum floor area of not less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.**
5. **The number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms; and required parking per number of units and landscaping on the site pursuant to Article IX Off-Street Parking and Loading Requirements.**
6. **All outside entrances to multifamily dwellings shall provide protection to the immediate area in front of said entrance from the weather.**
7. **Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.**
8. **Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the multifamily development.**

The full text for the proposed amendments can be found on the Planning Website at <http://www.harwich-ma.gov/planning-board>.

In accordance with state law, this legal notice will also be available electronically at [www.masspublicnotices.org](http://www.masspublicnotices.org). The Town is not responsible for any errors in the electronic posting of this legal notice.

Duncan Berry, Chair,  
Cape Cod Chronicle 9/3/2020, 9/10/2020

**ON THE FOLLOWING PAGES PLEASE FIND THE FULL TEXT OF THE PROPOSED CHANGES**

## §325-2 – Definitions

BEDROOM: Any room used or intended to be used for sleeping purposes or as determined by State and/or Harwich Board of Health Regulations. ~~For the purpose of determining the number of bedrooms in a proposed multifamily dwelling unit, all rooms which meet the minimum size requirements for habitable rooms under this bylaw other than a kitchen, bathroom and living/dining room shall be considered as bedrooms.~~

## §325-9 Permitted uses

In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with §§325-51 and 325-53, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district. Any use presently listed as a permitted use in the Table of Use Regulations shall be designated as a special permit if the use proposes a structure or structures having a gross floor area of more than 7,500 square feet or 20 or more new parking spaces on the site, except that single-family, multifamily, religious and educational uses shall be exempt from this provision. Some uses listed in the table as allowed as of right (P) or on special permit (S) require a special permit under the site plan provisions of this bylaw.

## §325-13 - Table 1 – Use Regulations, Paragraph I Residential Uses

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling (§325-51 Q)	<u>S</u>	<u>S</u>	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	-	-	S	S	S

## §325-16 - Table 2, Area Regulations

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
RH-2	Multifamily	40,000 plus 7,500 for every dwelling unit	150	50	50	50
RH-3	Multifamily	40,000 plus 4,500 for every dwelling unit	150	25	20	20
MRL	Multifamily residential	10 contiguous acres minimum; 25 contiguous acres maximum; maximum density 8 bedrooms per acre	150	50	50	50

MRL-1	Multifamily residential	8 contiguous acres minimum; maximum density 4 bedrooms per acre, provided Planning Board may give a bonus as elsewhere provided in this bylaw	150	50	50	50
<u>All Districts Where Permitted by Use Special Permit</u>	<u>Multifamily</u>	<u>40,000<sup>4</sup></u>	<u>150</u>	<u>Footnote 5</u>	<u>25</u>	<u>25</u>

<sup>4</sup>40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to multifamily residence the existing lot size shall be allowable.

<sup>5</sup>Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new construction the front setback shall be 25 feet.

**§325-16 – Table 3, Height and Bulk Regulations**

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
MRL	40	2½	15	50	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL</u>	<u>30</u>	<u>2½</u>	<u>15</u>	<u>25</u>	<u>None</u>
MRL-1	40	2½	15	50	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL - 1</u>	<u>30</u>	<u>2½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>In all Districts where Multifamily is Permitted by Use Special Permit</u>	<u>40</u>	<u>3½</u>	<u>-</u>	<u>80</u>	<u>Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940</u>

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## §325-18 Additional Regulations

- E. On a lot used for multifamily, hotel or motel purposes, parking lots, roads, streets, tennis courts, swimming pools and like amenities and facilities shall not cover more than 15% of the area of the lot. For the purpose of this subsection, golf courses, putting greens, bowling greens and similar amenities which do not involve covering the ground with any impervious material shall not be included for the purpose of computing the total ground coverage of a project.
- H. ~~No building permit may be issued for a multifamily dwelling project unless and until site plans showing the entire project to be constructed are submitted to the Building Official with the application for a building permit, and this requirement shall apply whether or not the project is to be built in phases.~~
- I. ~~All ways intended for use by vehicular traffic within the perimeter of a multifamily dwelling project shall be installed and constructed in accordance with the requirements governing road construction set forth in the Subdivision Rules and Regulations, as adopted from time to time by the Harwich Planning Board.~~
- J. ~~All multifamily dwellings must be connected to a municipal water system.~~
- K. ~~H.~~ A habitable room in a multifamily dwelling unit shall not have a minimum floor area of less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.
- (1) ~~All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.~~
- (2) ~~No outside staircase shall be used to furnish primary access to any of the units in a multifamily dwelling, hotel or motel.~~
- L. ~~No multifamily dwellings may be erected on any lot in the MRL or MRL-1 District the geographical center of which is closer than 1,500 feet to the geographical center of any lot upon which multifamily dwellings with more than four dwelling units are constructed, provided that, for the purpose of this subsection, contiguous lots in common ownership may be considered as a single parcel and developed for multifamily use, provided further that lots separated by a road, street or way will be considered contiguous for the purpose of this subsection and, if commonly owned, may be treated as one parcel for the purpose of multifamily construction.~~
- M. ~~Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of toxic or hazardous materials and sewage.~~

Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P” to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”

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**§ 325-20 Stories for human use or occupation.**

In reference to Table 3, maximum permitted height (stories), in no case may any building used for ~~multifamily dwellings~~, hotel or motel use exceed 50 feet in height nor contain more than four levels for human occupation. In no case shall a single-family residence contain more than two levels for human occupation, provided that the basement or cellar of a single-family residence can be used as a family room or recreational room but shall not be used as sleeping quarters unless it is made to comply with the provisions of the Building Code regulating the design and construction of such rooms. In no case shall any other building provide more than two stories or levels for human use or occupation.

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**§325-39 Off-street parking schedule.**

A. These standards are the minimum requirement. The Planning Board, under site plan review, may vary the required number of spaces if the nature and scale of a proposed use warrant such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated. In the case of multiple uses on a single lot, the required number of parking spaces will be equal to the combined total of parking spaces for each use.

<b>Use</b>	<b>Parking Spaces</b>
<b>Residential Uses</b>	
Single-family dwelling, two-family dwelling	2
Single-family dwelling with accessory apartment, <del>multifamily</del> or mixed-use development	1.5 per unit
<b><u>Multifamily</u></b>	<b><u>1.5 per studio, efficiency or 1-bedroom unit</u></b> <b><u>2 per 2-bedroom unit or greater</u></b>

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**§325-51 Special Permits**

D. Special permit to construct ~~multifamily dwellings~~, hotels or motels.

- (1) The Planning Board, in acting upon an application for special permit to construct ~~multifamily dwellings~~, hotels or motels, shall have the authority, pursuant to MGL c. 40A, § 9, to include in the grant of permission authorization to increase the permissible density of population or intensity of a particular use in a proposed development, provided that the petitioner or applicant shall, as a condition for the grant of authority to increase permissible density, provide certain open space or some or all of the amenities hereafter listed, but the Board shall not have the authority to increase the density of population or intensity of uses beyond the maximums hereafter specified.

Amenity	Maximum Density Increase
Swimming pool	8%
Tennis courts	4%
Golf course	16%
Community building or recreation building	2%

~~(2) For the purpose of ensuring that an applicant or petitioner constructs the proposed amenities in accordance with the plans and specifications submitted to the Planning Board, the Planning Board shall require, as a condition to the granting of the permit, that the applicant or petitioner execute a covenant on such reasonable terms and conditions as the Planning Board may specify and wherein the petitioner or applicant shall agree to construct the amenities as proposed in accordance with a timetable approved by the Planning Board, and the Planning Board may require that the amenity or amenities, once constructed, shall be under the control or jurisdiction of a nonprofit organization, the principal purpose of which is the maintenance and management of said amenities, or that control of said amenities be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. The covenant required hereunder shall be recorded at the Barnstable County Registry of Deeds before any work authorized by the special permit is begun, and no lot, dwelling or multifamily dwelling unit shall be conveyed (except as provided in MGL c. 41, § 81U, Clause 2) until said covenant has been released in whole or as it relates to the portion of the premises to be conveyed by duly executed instrument or release by the Planning Board.~~

**Q. Multifamily Special Permit**

9. **The Planning Board shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.**
10. **A Site Plan Review special permit pursuant to §325-55 is also required.**
11. **All multifamily dwellings must be connected to a municipal water system.**
12. **A habitable room in a multifamily dwelling unit shall not have a minimum floor area of not less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.**
13. **The number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms; and required parking per number of units and landscaping on the site pursuant to Article IX Off-Street Parking and Loading Requirements.**
14. **All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.**

15. Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.
16. Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the multifamily development.

**HARWICH PLANNING BOARD  
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH  
VIA REMOTE PARTICIPATION GoToMeeting.com  
THURSDAY SEPTEMBER 10, 2020 – 6:30 PM  
MEETING MINUTES**

**BOARD MEMBERS PRESENT:** Chairman, Duncan Berry; Arthur Rouse; David Harris; Mary Maslowski; William Stoltz; Joseph McParland; and Craig Chadwick were all present via remote participation.

**BOARD MEMBERS ABSENT:** Vice-Chairman, Allan Peterson.

**OTHERS PRESENT:** Charleen Greenhalgh; Katie Tenaglia; Steve Gopoyan; Swavi Osev; Andrew Singer; Shannon Goheen; Cyndi Williams; David Reid; Daniel Croteau; Carol Porter; Thomas Mulcahy; David Michniewicz P.E., Mike Sharet, Bill Ganshirt, George Gakidis, and David Hawk as well as others.

**CALL TO ORDER** - 6:30 PM by Chairman Berry with a quorum present.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

**PB2020-02 Steve Gopoyan & Swavi Osev, Site Plan Review Special Permit & Use Special Permit with Waivers, 346 Route 28 & 0 Sisson Road**

***Representatives:*** Andrew Singer, Dan Croteau, and Shannon Goheen

Ms. Maslowski recused herself from the hearing.

Chairman Berry re-opened the hearing by reading the legal notice into the record. Applicants seek approval of a Site Plan Review Special Permit and a Use Special Permit with waivers, pursuant to the Code of Town of Harwich §§325-13, ¶IV Line 30, -55 and -51 to construct a miniature golf course and expand and improve the parking and vehicle access. The property is located at 346 Route 28 and 0 Sisson Road, Maps 21, Parcels N1 & N2, respectively, in the C-H-1 and R-M zoning districts. Continued from 8/25/20.

Andrew Singer began the hearing by explaining that the applicants are seeking permission to redevelop a portion of the property to develop a mini-golf course. The property will be preserved and enhanced. The proposal will remove boat storage, vehicles, trailers, soil, and other materials. There will be a net decrease in the square footage of the property used for outside commercial space in both zoning districts. The wooded area along the hill will be retained. Storm water management will be upgraded. The proposal will be in keeping with the character of the neighborhood. Lighting will comply with the Harwich lighting regulations, and there will be no

impact to the neighbors. The proposal is for a seasonal use on a piece of land that already contains similar, seasonal, recreational uses and will not create any nuisance, hazard, or congestion to the neighborhood or neighboring properties. The last ticket sale will end at 10 PM, and during the off season is 7 PM. The site will be dark most of the year. This is an outside use, and is weather dependent. The season is limited.

Shannon Goheen presented the landscape plan, and discussed the design goals. They will be planting 40 white pines. The base of the wooded slope will completely screen everything that is being proposed tonight. Pines will keep growing and continue to provide screening. All native plants will be used.

Mrs. Greenhalgh read comments from other Boards, Departments, and Committees into the record. Health: The Health Department has no concerns with the change in use. The Health Department will require a passing Title 5 inspection, as well as a Disposal System Construction Permit to connect the proposed restrooms to the existing septic system. Both of these action items need to be completed prior to Building Permit approval. Fire: Looks great! Fire Department endorses the plan, no issues. Building: No Concerns. Police: The only Police Department comment from the beginning of this was improvements at the entrance on Sisson Road which appear to have been shown adequately on the plans. Conservation: The Conservation Commission approved an application for the proposed golf course on January 10, 2020 as some of the property is in a Flood Zone which is Conservation jurisdiction. When reviewing the Planning Board filing it was noted that the plans do not fully match what was approved by the Commission. The Assistant Conservation Agent does not foresee the Commission having any issues with the revisions, but a request for a change in the approved plans needs to be done in order for all departments and involved parties to be operating off the same set of plans. Engineering: Please refer to Planning Staff Comments below. The site will require a Storm water Discharge Permit. Water: The plans don't identify a proposed water service to the new ticket window/restroom building. That said, the Antique Store & Go-Carts both have town water so they may be installing a water service from one of the other buildings which wouldn't involve HWD. DPW: The DPW has no concerns with the plans. Please be advised that public safety has requested, and DPW is pursuing, the removal of the raised island in front of the Star Market where the tanker rollover occurred. The DPW Director is in the process of setting up a site visit with Steve Tupper (Cape Cod Commission) given the island was originally constructed as part of a Development of Regional Impact for the Star Market plaza. It is also an insurance matter, which further complicates things.

Planning Staff Comments: 1. Town Staff met with the applicant for an initial review prior to file applications with the Town. The Town Engineer and Town Planner have met on at least three occasions to review the various iterations of plans. To date the questions and/or concerns that were raised have been addressed. 3. Storm water will be fully addressed by the Town Engineer through the Storm water Discharge Permit process. 4. The proposed miniature golf and related parking does cross a lot line. The parcels should be combined prior to the commencement of any work on the property. In the alternative, an easement may be in order. 5. The rear portion of the property is located within the R-M Zoning District. A use variance from the Zoning Board of Appeals was granted. 6. Several conditions are recommended for primarily for the Site Plan Special Permit, and include but are not limited to: a. All drainage and storm water requirements,

local, state and federal, shall be met and approved by the Harwich Town Engineer prior to the commencement of construction operations, including a Storm water Discharge Permit. b. Prior to commencement of any work on the subject site, the two parcel shall either be combined by an Approval Not Required Plan or an Easement Agreement or some other legal agreement shall be executed. Neither document shall be valid nor work commence until said document is recorded at the Barnstable County Registry of Deeds and a copy of said document is filed with the Harwich Town Clerk and the Harwich Planning Board. c. All Zoning Board of Appeals, Conservation Commission and Board of Health requirements shall be adhered to. d. Signage shall comply with the requirements of the Code of the Town of Harwich and the Building Department. e. Lighting shall comply with the requirements of the Code of the Town of Harwich. f. Any changes to the site plan, other than those resulting from MassDOT review and approval, shall be subject to further Planning Board review and approval. g. This decision shall be recorded at the Barnstable Registry of Deeds prior to the issuance of a building permit. h. Conformance with all review procedure requirements outlined pursuant to §400- 18.G Inspection, certificate of completion and as-built plan, of the Code of the Town of Harwich shall be met. 7. As of September 1, 2020, three letters of concern were received, copies are attached hereto.

Mr. Harris asked if the ZBA decision is for use, or for the flood plain. Mrs. Greenhalgh clarified that it is for use. Conservation approved the portion within the flood plain.

Mr. Osev clarified that originally when the project was proposed to Conservation two 18-hole courses were proposed, and now they are only proposing one.

Mr. Stoltz asked what sized the red maple and cedar trees will be when planted. Ms. Goheen stated that the red maples will be approximately 8-10 feet at the time of planting, and the cedar trees will be about the same.

Mr. Chadwick had questions related to the storm water discharge permit. Mrs. Greenhalgh stated that Griffin Ryder, the Town Engineer, would hold a hearing and abutters would be notified. Mr. Chadwick stated that water pools at the end of Harold Street. Any stormwater would need to be taken care of on the site. Mr. Chadwick asked several other questions, all which were answered.

Mr. Stoltz asked if the lighting will shut off automatically on a timer. It was responded that the lights will likely be shut off by employees. During the summer 11:30 PM will most likely be the absolutely latest. Mr. Stoltz asked if it is a down force lighting. It was responded yes.

Mr. Harris asked for clarification on the hours of operation. It was responded that in season tickets will be sold until 10 PM, and it will take people approximately an hour to finish the course.

Mr. Rouse asked if food will be served. Mr. Singer replied that there will be no food service, but potentially chips.

Mr. Berry stated that there were three letters in support of the application and three letters opposed to the application. These are available in the case files.

Attorney David Reid is representing Beach Plum Condos. He stated that they have opposed this project since the beginning. The use variance was granted from the Board of Appeals, however they have remaining concerns. The landscape scanned plan online is so light it is unreadable. The height of the proposed white pines are a concern. What is that mature and planting height?

Ms. Goheen stated they will be starting at about 10-12 feet, and they grow quite quickly. Mr. Reid commented that the landscape details have not been included in the site plan. He addressed some of the conditions, and made requests to change some of the conditions.

Mr. Gopoyan stated that as far as the hours of operation, this will be a seasonal business. They are doing their best to accommodate everyone. It is like a restaurant, even if you close at 10, people will stay a little later. This is only during peak season. The go-cart tracks will still be going past that time.

A lengthy discussion ensued. Mr. McParland stated that he would like to continue the meeting to allow for the Town Planner to refine any proposed conditions.

Mr. McParland made a motion to continue the hearing to October 6, 2020 no earlier than 6:30 PM, seconded by Mr. Harris, unanimously so voted via roll call (6-0-0).

Ms. Maslowski returned to the meeting.

**PB2020-23 Wychmere Harbor Real Estate LLC, Amend Site Plan Review Special Permit & Special Permit, 23 Snow Inn Road**

***Representative:*** Andrew Singer, Esq.

Chairman Berry opened the hearing at 7:40pm by reading the legal notice into the record. Applicant seeks to amend a Site Plan Review Special Permit and a Special Permit for a structure greater than 7,500 s.f. granted in Case PB2019-27, or in the alternative a new Special Permit, to make alterations to the previously approved design at the north and south ends of the replacement restaurant building as well as reducing the size of the gatehouse building and accompanying landscape revisions. The application is pursuant to the Code of the Town of Harwich §325-55 (Site Plan Review), §325-51 (structure greater than 7500 s.f.) and Chapter 400. The property is located in the RH-3 and R-L zoning districts at 23 Snow Inn Road, Map 8, Parcel P2-12.

Andrew Singer began the hearing by explaining that the Planning Board granted a special permit authorizing upgrades to the beach club facilities at the southern end of the Wychmere Harbor Beach Club Property in Case No. PB2019-27. The Applicant is requesting an amendment to this approval to reflect changes shown on the submitted plans and described below. There will be no change in the existing use. The proposal will enable a better operational use of the replacement restaurant building and Beach Club portion of the Property and will result in additional environmental benefits to the adjacent wetlands and buffer zones. The Board of Appeals and Conservation Commission have each approved the amendment request. The amendment proposal includes the following: 1. Square off south end of the replacement restaurant building

by pulling back from the west and south property lines and extending easterly to match eastern side of the building; 2. Extend the entry octagon and neck at the north end of the replacement restaurant building, including a roof overhang and an increase in the height of the octagon roof only by 4.5 feet to remain conforming to the height limit in the Zoning By-Law. The approved height of the remainder of the replacement restaurant building will remain as approved. The size of the approved replacement restaurant building will increase by a net 129 sq. ft. over that approved; 2 3. Re-use, relocate, and re-orient the existing gate house entry building to the Beach Club in lieu of the approved, larger new gate house entry building 4. Widen the entry circle within existing radius of the circle (reduce center island) to improve emergency vehicle access as well as re-align the drive into the entry circle to be direct north-south in approach in lieu of former angle; 5. Re-align and redesign the walkways and stairs into the pool area at the east side of the replacement restaurant building, while maintaining ADA-compliant access; 6. Eliminate the two southerly infinity edges of the two southerly pools to comply with State regulations and replace with walkways around both pools; and 7. Make corresponding adjustments to locations and design of planters, walkways, etc. within the beach club fences.

Mrs. Greenhalgh read comments from other Boards, Departments, and Committees into the record. Health: The septic system is regulated through the Department of Environmental Protection with a groundwater discharge permit. I recommend referral to the DEP to ensure the changes are within the scope of the wastewater system and do not require additional inspections. A new grease trap is also needed, and will need to be permitted through DEP. The proposed restaurant will require a new food service permit through the Health Department. Review of the floor plans and finishes is required prior to approval of a building permit application. Full compliance with the 2013 Federal Food Code is required. The new swimming pools fall under the jurisdiction of the Health Department and will require a full plan review through our office in addition to the Building Department. Full compliance with 105 CMR 435.00: Minimum Standards for Swimming Pools, the State Sanitary Code Chapter V is required. The infinity pool does not meet this criteria, and will not be approved. Fire, Police, Water & Highway: No issues or concerns. 6 Conservation: Review and approvals were received by the Conservation Commission. Engineering: The Town Engineer reviewed the plans with the Town Planner; comments are noted below. Planning Staff Comments 1. The infinity pools and spa pool have been change to typical pools. 2. As noted, the Town Engineer and Town Planner met to review the various revised plans and application. Several questions arose, and on August 27, 2020 the Town Engineer met with the applicant and representatives on site to discuss the Storm water Discharge Permit and the Town Planner met with the applicant and representatives on site on August 31, 2020 to review the latest set of revised plan. 3. The Conservation Commission did approve the portion of this project that falls within its jurisdiction. 4. Zoning Board of Appeals approved a Special Permit on January 29, 2020 and an amended/modified Special Permit on August 26, 2020. 5. The building plans for the "Coastal Building" are not changing from what was approved pursuant to PB2019-27. 6. An amended Site Plan and Use Special Permit are recommended as opposed to new Special Permits. 7. Standard conditions with respect to the Site Plan Special Permit are recommended, including, but not limited to compliance with Zoning Board of Appeals, Health Department, Conservation Commission and Storm water Discharge Permit requirements.

Mr. Harris made a motion to close the public hearing, Mr. McParland seconded.

Mr. Singer clarified that the hearing needs to be opened to public to comment. Mr. Harris withdrew his motion.

Chairman Berry opened public comment, but no comments were made.

Mr. Harris made the motion to close the public hearing at 7:51pm, seconded by M. McParland, unanimously so voted (7-0-0)

On a motion from Ms. Maslowski, seconded by Mr. Harris, the Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings of fact:

1. The property is located within the RH-3 and R-L zoning districts. The proposed changes of use and alterations to the site were approved by the Zoning Board of Appeals pursuant to Board of Appeals Case #2019-28 and #2020-32.
2. The Conservation Commission approved the changes within conservation jurisdiction pursuant to MA DEP SE32-2383 and SE32-2387.
3. The height of the proposed Beach Grill is within the height limitations of the Zoning Code.
4. Building coverage limitations have not been exceeded; 15% is allowable and 11.5% is proposed.
5. The restaurant building has a net increase of 129 square feet over the previously approved building.
6. No changes to the Coastal Bar are proposed.
7. The existing gate house entry building will be re-used and relocated.
8. Amenity and site coverages have decreased slightly.
9. Green space coverages have increased slightly.
10. The use as developed will not adversely affect the neighborhood.
11. The specific site is an appropriate location for such a use, structure or condition.
12. There will be no nuisance or serious hazard to vehicles or pedestrians.
13. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

On a motion from Ms. Maslowski, seconded by Mr. McParland, the Board voted unanimously (7-0-0) by rollcall vote to approve case number case PB2020-23 Wychmere Harbor Real Estate LLC to amend a Special Permit for a structure greater than 7,500 s.f. granted in Case PB2019-27 to make alterations to the previously approved design at the north and south ends of the replacement restaurant building as well as reducing the size of the gatehouse building pursuant to the Code of the Town of Harwich §325-51 (structure greater than 7500 s.f.) and Chapter 400 for property located in the RH-3 and R-L zoning districts at 23 Snow Inn Road. The decision is based on the aforementioned finds of fact and the fact that the application meets all the necessary requirements for the granting of the Special Permit.

On a motion from Ms. Maslowski, seconded by Mr. McParland, the Board voted unanimously (7-0-0) by rollcall vote to approve with conditions case number PB2020-23 Wychmere Harbor Real Estate LLC to amend, pursuant to the Code of the Town of Harwich §325-55 (Site Plan Review) and Chapter 400, a Site Plan Review Special Permit previously granted under PB2019-27 to make alterations to the previously approved design at the north and south ends of the

replacement restaurant building as well as reducing the size of the gatehouse building and accompanying landscape revisions for the property located in the RH-3 and R-L zoning districts at 23 Snow Inn Road, Map 8, Parcel P2-12. The decision is based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and following conditions: All Zoning Board of Appeals and Conservation Commission requirements shall be met.

- A. The proposed restaurant will require a new food service permit through the Health Department; and shall include the review of the floor plans and finishes which shall be required prior to approval of a building permit application. Full compliance with the 2013 Federal Food Code is required.
- B. The new swimming pools fall under the jurisdiction of the Health Department and shall require a full plan review through both Health and Building Departments; which shall also include full compliance with 105 CMR 435.00: Minimum Standards for Swimming Pools, the State Sanitary Code Chapter V.
- C. All signage shall comply with the Sign Code and Building Department Requirements.
- D. All lighting shall comply with the Lighting Code Requirements.
- E. All drainage and storm water requirements, local, state and federal, shall be met and approved by the Harwich Town Engineer.
- F. This decision shall be recorded at the Barnstable Registry of Deeds.
- G. Conformance with all review procedure requirements outlined pursuant to §400-18.G Inspection, certificate of completion and as-built plan, of the Code of the Town of Harwich shall be met.

**MEETING MINUTES:** August 25, 2020

Mr. Harris made the motion to approve the minutes from August 25, 2020, seconded by Mr. McParland, unanimously so voted via roll call.

**BRIEFINGS AND REPORT**

Mrs. Greenhalgh stated the Cape Cod Commission approved the language as compliant with the West Harwich DCPC.

Mr. McParland asked at what point the meetings will be in the Town Hall. Chairman Berry replied that it is in the hands of the governor. Mrs. Greenhalgh explained the Health and Safety reasoning why it will likely remain remote for quite a while. A discussion ensued.

**ADJOURNMENT:**

Mr. McParland made the motion to adjourn at 8:05 PM, seconded by Mr. Chadwick, unanimously so voted via roll call.

Respectfully Submitted,  
Kathleen A. Tenaglia, Board Secretary

Adopted: