

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET- GRIFFIN ROOM
TUESDAY, AUGUST 13, 2019 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Mary Maslowski; Craig Chadwick; William Stolz; David Harris, and Joseph McParland.

BOARD MEMBERS ABSENT: Vice-Chairman Alan Peterson.

OTHERS PRESENT: Town Planner, Charleen Greenhalgh; William Marsh; William Riley; Susan Ladue; John D. McElwee; William Crowell; Nina Schuessler; Jeffrey Kracht; Cheryl Doran; Howard Cahoon; Saumil Patel; and others.

CALL TO ORDER - 6:30 PM by Mr. McParland with a quorum present.

BOARD ELECTIONS - Chair and Board Clerk (aka Vice Chair)

Mr. Chadwick nominated Mr. McParland as the new Chairman, seconded by Mr. Harris. There were no other nominations. Ms. Maslowski made the motion to make Mr. McParland the new Chairman, seconded by Mr. Chadwick, unanimously so voted.

Mr. Stoltz made the recommendation and the motion to keep Mr. Peterson the Vice-Chairman, seconded by Chairman McParland, unanimously so voted.

Chairman McParland announced that as of August 1st, he is no longer practicing law, and is thrilled to take on this position.

Chairman McParland 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 this open session is required to inform the chair.

PB2019-15 Deerfield Nominee Trust, Site Plan Review, 4 Deerfield Road

Representative: William Marsh, William Riley and Susan Ladue.

Chairman McParland reopened the hearing at 6:34 pm by reading the notice into the record. Owner seeks approval of a Site Plan Review Special Permit with waivers for new construction of a 5,845 SF metal structure for industrial use. The property is located at 4 Deerfield Road, Map 45, Parcel T1-7 in the I-L zoning district. The application is pursuant to the Code of the Town of Harwich §325-51 and -55. This is a continuation of the public hearing from June 11, 2019.

Mr. Marsh explained the proposed project. He stated that they went to the Board of Appeals for this project, and received a unanimous vote of approval. However, they are looking for guidance from the Planning Board on several issues.

Attorney Riley stated that they received a Zoning Board of Appeals (ZBA) dimensional variance. The Building Commissioner, like the Town Planner, felt that the line at the rear of the building required a setback variance. The shape of the lot from the northerly lot line required a significant portion of the structure. The ZBA agreed that because of the shape of the lot, and the financial hardship, that relief could be granted. The principal issues are highlighted by the Town Planner in her staff report. The waivers that they are seeking deal with the entrance on to Deerfield Road. A 90' opening is proposed, while a 50' opening is the maximum allowable. The Town Planners report explains why she believes the opening is too large, but they, the applicants, disagree. Attorney Riley continued to state that there is plenty of maneuvering room even without the large opening within the confines of the lot. They are asking for feedback on how they can reduce the width, even though they disagree it needs to be done. It will not be utilized routinely by tracker trailers. The bays will be rented by professionals and they will be receiving deliveries of materials in box trucks. Maneuvering using Deerfield road is not going to be important to the renters. Another concern is regarding the 4 back out parking spaces. Deerfield Road is never going to be a thorough fair, and the site distances are wide open. Requesting a back out space is not much to ask for. They believe it is a reasonable waiver request.

Ms. Ladue read Town Planners report item E - §325-40 Loading requirements and stated that they would like to request a waiver from this requirement. She continued to read item F - an exterior dumpster and stated that they will also request a waiver. Ms. Ladue stated that parking is shown in front of bay doors, if someone needed to get in or out of a bay the car could easily be moved. The anticipated use of renting to small businesses and tradesman would not lead to issues with parking. Lastly Ms. Ladue read item H and stated that the waiver for two curb cuts are not necessary.

Mrs. Greenhalgh stated that if they split the entrance then they would need three curb cuts. Ms. Maslowski clarified why a waiver for two curb cuts wouldn't be necessary unless an island is made to break up the entrance. Mrs. Greenhalgh clarified that if an island was provided in the entrance then there would be a potential of 3 curb cuts, and that would require a waiver.

Mr. Chadwick asked why 11 parking spots are requested when only 6 are required. Mr. Riley stated that more parking spots are better, they trying to anticipate the use of the building, they felt it was better to have extra. Despite having extra parking spots, they are still under the lot coverage.

Mr. Chadwick asked if they would be willing to remove the four back-out spaces. Mr. Marsh said they are willing to abandon those spaces if that is a concern.

Mr. Harris stated that the initial use of the building may not require maneuvering on Deerfield Road, but how are we to know the case 10 to 15 years from now. He is quite concerned that there is more building on the lot than this can accommodate. He continued to stress that he is concerned that too much is being crammed onto the lot. There are too many concerns such as maneuvering space, back-out spaces, parking space in front of bays, and it just seems like too much is being crammed onto a small lot.

Mr. Marsh said they are way under in coverage, and way over in green space. Mr. Harris said that is not his concern, which he reiterated.

Mr. Stoltz, asked if they had considered getting rid of one parking space on Deerfield Road and one space on Depot, eliminating 2 parking spots and ending up with a better setback.

Mr. Marsh said they are willing to do whatever is needed to gain approval.

Ms. Maslowski asked Mrs. Greenhalgh if the Town Engineer has had time to review the complete application. Mrs. Greenhalgh stated he shares her concerns and those are in her report.

Ms. Maslowski stated she is not a fan of the back out spaces. It's a tough corner, and a tough lot.

Mr. Chadwick asked about the possibility of stacking parking. The four spaces wouldn't back out. They wouldn't present a greater problem than parking in front of the bay doors. Stacked parking without backing up would accomplish that. Back out parking is a strong concern.

Mr. McParland asked if they still comply with the parking requirements if they removed the 4 back out spots. It was responded yes.

Mrs. Greenhalgh stated that tradesman require a different parking calculation then what the application applied with.

Mrs. Greenhalgh read staff and planning comments into the record as follows: Conservation, Building, Police, Highway, Water and Fire: No concerns. Health: The applicant has not yet applied for a disposal system construction permit, however the site plan indicates that a fully compliant system will be installed. If floor drains are to be installed, they are not allowed to be connected to the drainage or septic systems, and must be plumbed to an industrial holding tank.

She continued with her own comments: A) The Town Engineer was not on staff when this application was filed and therefore did not have the opportunity to review the application and plans. I have discussed this proposal with him and he shares many of my concerns, as noted below. B) The driveway and curb cuts far exceed that allowable under Section 325-42. Should a driveway for a multifamily, commercial or industrial use require a width in excess of 50 feet, justification for this increase in width shall be provided by the applicant to the Planning Board for review, approval or denial as part of the site plan review process. The Town Engineer shares concerns about the width of this entrance and do not support this waiver request. The maneuvering is required to be located within the site; however with the large curb cuts it appears that the road is being used for circulation and maneuvering. C) There are four (4) parking spaces which back directly onto Deerfield Road. §325-42 Subparagraph L requires a 15 foot setback for parking. The Board will need to expressly authorize approval of these spaces. These four spaces also have a curb cut greater than 24 feet in width. The Town Engineer shares in the concerns with the width and that parking in this area should not be allowed to back onto an industrial road and we do not support this waiver request. She is unaware of any industrial zone applications receiving such a waiver. D) Additionally, the remaining parking spaces also do not meet the 15 foot setback. The Board will need to expressly authorize approval of these spaces. She does not have a concern with this. E) §325-40 Loading requirements: A building of greater than 5,000 sf requires a minimum of one area for loading and unloading. This has not been provided and no waiver has been requested. F) A waiver from an exterior dumpster will also be needed or a note

on the plan indicating that refuse will be stored inside the building. G) Parking is shown in front of bay doors; how will this not impede access to the bays. H) The waiver requested for two (2) curb cuts is not necessary. I) The parking calculations are based solely on “light industry & manufacturing” and three (3) employees. Only six (6) parking spaces are required; however 11 are provided on the site. It is not clear why the need for the additional five (5) parking spaces. If there are “company owned vehicles to be parking on premises” (the additional 5 spaces), this will need to be in the parking calculations. J) Any use other than “light industry & manufacturing” would need to come back to the Planning Board for further review and other department reviews for a determination as to whether the parking and other features are appropriate for the proposed use. K) There is no question that this is an odd shaped lot. The need for relief to allow for parking closer to the roads (front setbacks) and the need for a variance from the rear lot line is a testament to this. Additionally, as noted previously, the need for an excessively large curb cut is needed for maneuverability. For safety reasons there appears to be too much building and parking for this lot to support. The Town Engineering shares concerns with the large curb cut opening and the parking backing onto Deerfield Road. L) At this time the Town Planner cannot recommend that the Board take final action on this application. There has not been adequate discussion on the various waivers requested (and not requested) by the applicant to draft findings of fact and expressly authorized approvals for me to draft language for the Board.

Mrs. Greenhalgh also pointed out to the Board that they are not the ones who should be designing the project.

Mr. Riley stated that he agrees the Board should not be designing the project, but they are seeking guidance on the issues that are of concern to the Town Planner and to the Board. He cannot understand what installing an island in the curb cut would do, but if the planning board wants it, they will include it.

Mr. Marsh stated they would like some guidance. They can very easily come back with a plan showing an island if that is what the Board wants. They are happy to abandon the 4 parking spaces as well. But they do not want to come back with another idea that the board does not support.

Mr. Harris is concerned that down the road, having the extremely large opening is going to be an invitation to use Deerfield for circulation, creating danger.

Ms. Maslowski stated that if both the Town Planner and the Town Engineer want to see less than 90 feet, she is inclined to listen to the professionals on that matter.

Mr. McParland asked about Carl’s Boat Yard. It was responded by Mr. Marsh and Mr. Riley that while at the ZBA, the chairman stated that this area is the gateway to Harwich, and that portion of the property is a real eyesore. They have commitment to him that they will put the hammer down on Carl to get that stuff out of there, and clean up the lot.

Mrs. Greenhalgh read the parking requirements for tradesman.

Mr. Marsh stated they really think the building will be used for home use storage, and that is what it is designed for. Ms. Maslowski asked if there is different parking requirements for

different types of storage. Mrs. Greenhalgh stated that there is not a set parking requirement for storage, but stated that there are various options.

Mr. Riley asked to withdraw without prejudice and requested a waiver of the filing fee.

Ms. Maslowski made the motion to close the public hearing (7:14pm) and to allow for the withdrawal without prejudice of PB2019-15 Deerfield Nominee Trust and to allow for a waiver of the filing fee for a future application by the applicant for this property provided such application is made within 365 days, seconded by Mr. McParland, unanimously so voted.

PB2019-23, Edson Eldredge, 2-Lot Definitive Subdivision with Waivers, 1022 Queen Anne Road

Representative: John D. McElwee, PLS and William Crowell, Esq.

Bleu Land LLC, as owner, seeks approval of a 2-lot Definitive Subdivision with waivers and a panhandle lot pursuant to the Code of the Town of Harwich §325.18(Q) and MGL c.41, §81K-GG. The property is known as 1022 Queen Anne Road, Map 74, Parcel W-2 in the RR & W-R Zoning Districts. This is a continuation of the public hearing from July 9, 2019.

Chairman McParland reopened the hearing at 7:15 pm.

Mr. McElwee explained the proposed project which is for a 2 lot subdivision with one panhandle lot. He stated that they have already explained the parcel and lots itself at the last meeting, but he reminded the Board of what was being proposed. No additional information was presented for this meeting as nothing further was requested. They have three reasonable waiver requests. There will be notes added as a result of the Board of Health hearing, bounds have been set, so this language needs to change and one of the abutting road names needs to be changed. They have not made the changes yet, but they will make the changes if the plan is approved.

Mr. McParland did drive down to look at the property.

Mrs. Greenhalgh reminded the Board that four (4) votes of the Board will be required to approve the subdivision and all Board Members are eligible to vote. She then read from her staff report, but did not reread the department comments. 1) There has been some question as to the ownership of this property; however it is not the Planning Board jurisdiction to question ownership. A deed and plan have been provided, the applicant/owner has signed the application and the surveyor has stamped the subdivision plan. She reminded the Board that a similar situation was before the Board with the Freeman Ellis Subdivision on Route 39. 2) Board of Health notes will need to be added to the plan prior to plan endorsement. 3) The request is also for a panhandle lot to serve as frontage and access for Lot 2. 4) The first request is reasonable as this is a panhandle lot subdivision and there is no roadway to be constructed. 5) The second request for no covenant is also reasonable in that all the concrete bounds have been set. Prior to endorsement of the plan, it should be updated to show all bounds. 6) The request for topography cannot be support, but leaves this to the Board's decision. She went on to explain that the existing topography is useful to the Building Commissioner for determining the natural grade.

Mr. Chadwick asked if topography shows the elevations. It was responded yes. Mr. McParland reiterated comments from the Town Engineer and the Fire Department. There were no further questions from the Board.

Nina Schuessler, 1040 Queen Anne Road, is very concerned with the access of the panhandle lot. Cars fly by there, it is a very dangerous part of Queen Anne Road. The Board should really look at that when considering this pan handle. Over 30 years ago she applied for a panhandle lot, and she was told she didn't have enough frontage, so what has changed? You have to think about cars going by, access for police and fire, this is not simply a little driveway, its access to a back lot. It is a very dangerous part of Queen Anne Road at the bottom of a hill on a curve.

Mrs. Greenhalgh pointed out that fire, police and highway departments have all reviewed this, and had no concerns other than the house number needed to be placed on the house.

Jeffrey Kracht, 1032 Queen Anne Road, is requesting that the planning board review the safety of this driveway location. A Chatham cruiser was in an accident right by this proposed driveway not long ago. Partridge Path across the street is a bus stop. A neighbor has been working on speed limit enforcement on this area. The proposed driveway is in a very dangerous area at the bottom of a hill on a curve. There is a pole with transformer at this location. There is an existing curb cut already on 1028 Queen Anne Road per the Harwich tax map. Consider the vegetation and wildlife will be displaced. Please consider taking the time to do a complete study before voting on this matter. Mr. McParland asked for clarification as to the location of his property

Dave Hood, 1016 Queen Anne Road, stated that he has no concerns with Mr. Eldredge, as he is a well-respected business man. His concern is with the previous owners and surveyors who have taken over the lot next door which was previously unknown. The frontage went from 110' to 200' overnight. It really stinks they were able to take this property, which effects the abutters significantly. The land was acquired in cahoots with the previous owner and surveyor. Mr. McParland stated that the current witness is a client, so he must recues himself and he removed himself from the table.

Ms. Maslowski will act as the chair for the remainder of the hearing. Mrs. Greenhalgh stated that this would now need to be a unanimous vote.

Cheryl Doran, 36 Old Heritage Way, stated that when she bought her home 17 years ago she was told no one could build behind her, as the lot was listed as no owners. That is the main reason she bought her house. About 5 years ago, she added on an addition when she retired so she could rent a private bedroom suit through Air BnB, and has successfully built that business up. Her guests love her extensive backyards gardens. She is concerned that without this land remaining vacant she may lose clients and without that income she could not stay in her home. She requests that a large buffer be provided and all mature trees remain.

Jeffrey Kracht read a letter of concern from Phil and Laura Gillespie, 44 Old Heritage Way, into the record. They were told this parcel could not be built on. There is a concern with the driveway being so close to their property. They requests a large buffer, and request the vote be delayed until all options are considered.

Mr. Harris asked where the access to the Gillespie lot is. Mr. Krocht stated 44 Old Heritage Way and pointed to it on the map.

William Crowell stated that he is familiar with many of the speakers this evening, and understands where they are coming from; however, the panhandle bylaw is new in the last 7-8 years, the regulations have changed. Rules and regulations change, and the town adopted the panhandle bylaw. The applicant is within his legal rights to make this application. The title is not a question for this board. He spoke to the owners unknown and that owners can be found. Everyone wants peace and quiet and privacy, but it's still a free country and everyone is entitled to use their property in the way the law allows. If a house can be built on in a wooded area, it can be built on. We can't put a door on the bridge and say we got our lots and you can't build on your lots. The petitioner has the right to file for this panhandle and to build a house on his lot. The board has to abide by the regulations, if they deny the request, they have to provide written explanation/reasons why it does not meet the zoning requirements, which is does.

Mr. Stoltz asked if the Board can request that along with the plan, can a green area be required. Mr. Greenhalgh said it can be requested, but it does not have to be provided by the applicant. She said that the Board could ask. Mr. Stoltz asked if they can see the placement of the houses on the adjoining. Mrs. Greenhalgh stated that it is not a requirement. Mr. Stoltz asked the applicant if they would be willing to provide a buffer area. Mr. Crowell stated that he would have to consult his client.

A five minute recess was taken at 7:35 pm. The hearing resumed at 7:40 pm.

Mr. McElwee stated that Mr. Eldredge has agreed to allow for a non-disturbed area around most of the property. What they proposed to the Board and the abutters is a undisturb area of 10 feet on the east side of the panhandle, and 25' around the major portion of lot 2. This will help shield any building within the lot. No trees will be cut within that area. It was agreed that this would be a condition of approval.

Mr. Crowell reminded the Board that it would be a unanimous vote to approve this application. Ms. Maslowski asked if this would be a condition of the panhandle or the subdivision. Mrs. Greenhalgh stated a subdivision. She read the draft condition: The applicant agrees to a 10' no disturb buffer along the eastside of the panhandle and a 25' no disturbed buffer around the north, west and east side of lot 2.

Mr. Crowell stated that the owner is creating a self-imposed 25' area of no disturb buffer voluntarily.

Mr. Kracht asked if they could add evergreens or some screening. He continued to state that the area has already been cut down more than 10'. Ms. Maslowski reiterated that the applicants have provided an undisturbed buffer. Mr. Crowell stated that the applicant is not willing to do any plantings.

The question was raised, what happens when the sewer becomes available. It was responded that the applicant knows they will have to connect, that is not in this Boards preview.

Hearing no further comments, Mr. Chadwick made the motion to close the public hearing at 7:48 pm, seconded by Mr. Stoltz, unanimously so voted.

On a motion from Mr. Harris, seconded by Mr. Chadwick, the Board voted unanimously (4-0-0) to adopt and approve the following findings of fact related to the request for Panhandle Lots:

1. Lot frontage and lot width within the panhandle portion is 35 feet wide.
2. The length of the panhandle portion is less than the maximum 300' at ~202 feet.
3. Suitable access by a driveway to such lot is provided within the panhandle and the access is wide enough and otherwise satisfactory for a driveway.
4. The panhandle lot meets the shape number requirements, being less than or equal to 22.

The Board members reviewed the criteria for granting a Definitive Subdivision and following a motion by Mr. Harris and seconded by Mr. Stoltz, the Board voted unanimously (4-0-0) to adopt the following findings of fact related to the Subdivision:

1. Said subdivision for residential uses are permitted in the R-R and W-R zoning districts.
2. Said subdivision does not adversely affect the neighborhood.
3. All lots demonstrate compliance with minimum dimensional requirements for frontage, area and shape.
4. Board of Health requirements shall be met.

On a motion from Mr. Harris, seconded by Mr. Chadwick, the Board voted unanimously (4-0-0) to approve the following waivers from the Subdivision Rules and Regulations pursuant to §400, Article II, based on staff comments:

1. Section 400-10-B Plan Profile and Cross-Section Requirements
2. Section 400-11-D Performance Guarantee Bond or Covenant
3. Appendix 4B Subdivision Filling and Plan Requirements Item 37 Topography of Land

On a motion from Mr. Harris, seconded Mr. Chadwick, the Board voted unanimously (4-0-0) to approve with conditions PB2019-23 for Edson Eldredge, as applicant, c/o John D. McElwee, PLS, representative, Bleu Land LLC, as owner for a 2-lot Definitive Subdivision, shown on a plan entitled "Definitive Subdivision Plan of Land for Edson Eldredge, 1022 Queen Anne Road, dated 5/31/2019, scale 1" = 30', by Coastal Engineering Co.", with waivers and a panhandle lot pursuant to the Code of the Town of Harwich §325.18(Q) and MGL c.41, §81K-GG. The property is known as 1022 Queen Anne Road, Map 74, Parcel W-2 in the R-R & W-R Zoning Districts. The following conditions are imposed:

1. Board of Health requirements/conditions shall be added to the Definitive Plan prior to the endorsement of the plan.
2. Waivers approved by the Planning Board shall be added to the Definitive Plan prior to the endorsement of the plan.
3. Prior to endorsement a revised plan showing all bounds shall be submitted.
4. The applicant has agreed to a condition that there shall be a no disturb buffer zone of 10 feet from the east side of the panhandle tapering to a 25 foot no disturb buffer around the remainder of the lot along the east, north and west property line of Lot 2.

PB2019-27 Wychmere Harbor Real Estate LLC, Site Plan Review Special permit, 23 Snow Inn Road

Chairman McParland opened the hearing at 7:58 pm by reading the legal notice into the record. Applicant seeks to amend a Site Plan Review Special Permit granted in Case PB2010-26 by making improvements to the existing beach club; including replacing the existing restaurant/pool equipment building, two swimming pools, the pool decking and other site improvements with a new restaurant building, a small restroom and retail building, a pavilion expansion, two smaller swimming pools and a new concrete pool deck, and various beach amenities. The applicant 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.

Mr. McParland returned to the table.

An email was received from Attorney Andrew Singer requesting a continuance of the hearing to October 22, 2019, this was read into the record. Ms. Maslowski made the motion to continue the hearing to October 22, 2019 no earlier than 6:30 pm, seconded by Mr. Chadwick, unanimously so voted.

PB2019-28 Saumil Patel, Approval of Fast Food Restaurant, 711 Main Street

Representative: Howard Cahoon and Saumil Patel

Chairman McParland opened the hearing at 7:59 pm by reading the legal notice into the record. 711 Main ST, LLC as owners, seeks approval of a Restaurant, Fast Food - Take Out Use Special Permit pursuant to §325-13, § IV.32A of the Code of the Town of Harwich for property located at 711 Main Street, Map 41 Parcel D8 in the C-V zoning district.

Mr. Cahoon began the hearing by explaining that they seek the approval for the takeout segment of the project, which was omitted during the previous hearing. Parking and sewerage will be adequate. Allowing this establishment will add to the choices that the public have in Harwich center, and it is a good thing,

Mrs. Greenhalgh read staff from her staff report. Health: This will require a food service permit application and a septic system permit application, needing a fully compliant Title 5. No objections to the Special Permit. Planning Staff Comments: A) This went through an extensive Site Plan Review process. Only the Restaurant, Fast Food– Take Out is before the Board. B) Standard conditions are recommended.

Hearing no public comments Ms. Maslowski made the motion to close the public hearing at 8:02 pm, seconded by Mr. Harris, unanimously so voted.

On a motion from Ms. Maslowski and seconded by Mr. Harris the Planning Board voted unanimously to adopt the following findings:

1. The property is located within the C-V zoning district and the Harwich Center Overlay district.
2. The use as developed will not adversely affect the neighborhood.
3. The specific site is an appropriate location for such a use.
4. The site went through an extensive review under Site Plan Review, case PB2019-18.
5. There will be no nuisance or serious hazard to vehicles or pedestrians.

6. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including appropriate sewage treatment.

On a motion by Ms. Maslowski, seconded by Mr. Harris, the Board voted unanimously to approve with conditions the Use Special Permit for case number PB2019-28 Saumil Patel, as applicant, 711 Main ST LLC, as owners, for a Restaurant, Fast Food - Take Out Use Special Permit pursuant to §325-13, § IV.32A of the Code of the Town of Harwich for property located at 711 Main Street, Map 41 Parcel D8 in the C-V zoning district, 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. The following condition is imposed: This decision shall be recorded at the Barnstable Registry of Deeds.

ADVISORY OPINIONS: Zoning Board of Appeals, August 28, 2019- No Comments.

PB2019-17 Cook - Request to refund filing fee following withdrawal without prejudice.

David Cook thanked the Board for spending time listening to his application. He is requesting to get the money back, as he spent a large amount of money trying to make this work. He owns a small painting business. His engineer backed out last minute, and he had to hire another engineer. He wasn't aware that his business would be required to be in an industrial area, and he lost tons of money on engineering and architecture fees.

Mr. McParland clarified where the lot is located. It is next to Villa Roma, but he is not the owner, he backed out of the deal.

Mrs. Greenhalgh read Mr. Cook's email into the record: "I had previously requested a withdrawal for PB2019-17 282 ROUTE 28 without prejudice of my application. Upon realizing that our business wasn't able to be in that area at all and also trying to work with the parking easement with all the moving parts to make it come together but it just wasn't a fit for us. We had a deadline with our purchase and sales as of July 17, 2019 and withdrew from the purchase of the property due to the fact it wasn't a fit. With that said we would like to request funds back of \$2,247.00 considering we are not pursuing this matter further. Thank you for your prompt attention to this matter."

Mrs. Greenhalgh noted that she did not have the authority to refund the application fee, she read her memo to the Board members: "He has requested that the Planning Board review his request. As a reminder, the Board did grant a waiver of the filing fee for Mr. Cook if he was to refile within 365 days. As stated in my response to Mr. Cook, the filing fee is intended to cover staffing and other overhead costs associated with his application. This application was processed by the Planning Office with the Planning Assistant preparing the case file; preparing a referral form and packets; preparation of the legal notice, plus the cost of advertising; correspondence with the applicant about notification to abutters, notification to abutters following the withdrawal, etc. In addition to my review of the plan and application the following departments reviewed: Engineering, Fire, Police, Health, Highway and Conservation. Many staff hours were expended on this one application. In addition, I spent time with Mr. Cook and his representatives reviewing revised plans and corresponded several times with him. It is unfortunate that Mr. Cook was not able to move forward with the purchase of the property; however, this does not warrant a refund of the application filing fee."

Mr. Harris asked if they have the authority to refund a fee. Mrs. Greenhalgh stated that the Board has done it in the past, but it is up to the Board.

Ms. Maslowski asked if the fee is tied specifically to that lot, or could the Board allow a waiver of fee for a year on another planning board site plan filing. It is tied to this parcel.

Mr. Cook responded he would need an industrial lot, and none exist in Harwich.

Mr. Chadwick asked what he thinks he could have done anything differently to learn this information. Mr. Cook responded he believes it is on the Real Estate Agent and the original engineer.

Mrs. Greenhalgh stated that applicants are encouraged to talk to staff beforehand, and unfortunately that was not relayed by the realtor.

Ms. Maslowski asked Chairman McParland if they ever refunded a filing fee. He responded yes, they have.

Mr. Harris asked in the past was the reason or justification similar? Chairman McParland responded that this is a very unusual situation.

Mr. Stoltz asked if Mrs. Greenhalgh had an estimate of how much time the Town has invested in this. Mrs. Greenhalgh responded that substantial time was spent on this application.

No motion was made by any of the Board members, and Chairman McParland stated that the Board is not willing to refund the funds.

Mr. Stoltz then made the motion to refund \$500, seconded by Ms. Maslowski. The Board vote was favorable 4-1 (Mr. Chadwick).

PB2019-20 Toomey Definitive Subdivision & Covenant Endorsement

The 20-day appeal period from the above referenced subdivision has expired. The applicant seek endorsement of the Definitive Subdivision and the Planning Board Form B-2 Agreement and Covenant.

Ms. Maslowski made the motion to endorse the Definitive Subdivision Plan and Planning Board Form B-2 Agreement and Covenant for PB2019-20 Mark and Andrea Toomey, seconded by Mr. McParland, unanimously so voted.

BRIEFINGS & REPORTS BY BOARD MEMBERS

Mrs. Greenhalgh stated that there was an item on the August 12th Selectmen's agenda for a District of Critical Planning Concern (DCPC) referral regarding West Harwich; however, neither this Board, nor she-the Town Planner, were invited to attend the meeting. She is anticipating that the Selectmen will be referring this to the Planning Board with regards to the DCPC. Because of this, she has provided a packet of information including the District of Critical Planning Concern

Chapter from the Cape Cod Commission, as well Chapter E DCPC guidance documents, the brochure, review process, nomination form, the most recent DCPC from Eastham, etc. This will most likely be on a future agenda.

Mr. Chadwick asked if they have to receive something from the Board of Selectmen in order to take it into consideration. Mrs. Greenhalgh stated no, but it makes the boards' job harder without further detail.

Ms. Maslowski said that Board of Selectmen did not want to bypass the Planning Board and the Town Planner, and that is why Mrs. Greenhalgh provided the board this information.

Mrs. Greenhalgh also stated that Duncan Berry is now a new full member. Mr. Harris brought up that the Board still needs alternate members.

Mr. Chadwick asked Mrs. Greenhalgh about the process and procedures meeting, and when that will be on the agenda. Mrs. Greenhalgh stated that she needs to discuss with Chairman McParland and Mr. Chadwick prior to it being placed on an agenda.

ADJOURNMENT: The motion was made by to adjourn at 8:29 pm. The motion was made by Mr. McParland, seconded by Ms. Maslowski. Unanimously so voted.

Respectfully submitted,

Kathleen A. Tenaglia, Board Secretary.

Adopted: August 27, 2019