

**Harwich Planning Board Agenda
Griffin Room, Town Hall
732 Main Street, Harwich
Tuesday, March 12, 2019 – 6:30 PM**

I. Call to Order

Recording & Taping Notification – As required by law, the Town may audio or video record this meeting. Any person intending to either audio or video record this open session is required to inform the chair.

II. Public Hearing

A. Zoning Bylaw Amendments Public Hearings – *Copies of the full notice for each item are attached for the web posting and hard copies are posted and available at the Town Hall.*

1. Single-family dwelling with accessory apartment
2. Freestanding Portable Sign and Retaining Wall(s) for Septic Systems
3. Special Provisions for Lifting Existing Structures to New Appropriate Elevations

III. Public Meeting*

A. New Business

1. **PB2019-11 Paul J. Cuddy, Tr., Sylvester Realty Trust**, c/o Moran Engineering Associates, LLC, seek endorsement of a two (2) lot Approval Not Required plan entitled “Plan of Land in Harwich, Mass” prepared for Paul Cuddy Trustee, dated 2/25/2019 prepared by Moran Engineering Associates, LLC, pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 0 Orleans Road (at the end of Spences Trace) Map 86, Parcel M7-A. The parcels are in the R-R, C-H-2, Six Ponds and W-R zoning districts.
2. Meeting Minutes: February 26, 2019

B. Advisory Opinions

C. Old Business

D. Briefings and Reports by Board Members

IV. Adjourn

**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, March 26, 2019

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

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

Harwich Planning Board Legal Notice - Proposed Zoning Amendment

In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, March 12, 2019 no earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, to consider amendments to the Harwich Zoning Codes:

ARTICLE: - Zoning Bylaw amendment for single-family dwelling with accessory apartment

To see if the Town will vote to amend the Town’s Zoning Bylaw, as follows:

(i) By amending ARTICLE V, Use Regulation, §325.13.A, Paragraph I, Residential Uses, namely Table 1, Use Regulations, Paragraph I – Residential Uses, Use No. 10, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

Table 1, Use Regulations

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
Paragraph IV – Residential Uses													
10													
Single-family dwelling with accessory apartment (§325-51H§325-14.T)	S <u>P</u>	S <u>P</u>	S <u>P</u>	S <u>P</u>	-	-	S <u>P</u>	S <u>P</u>	-	-	S <u>P</u>	S <u>P</u>	S <u>P</u>

and

(ii) By renumbering and repositioning with the Zoning Bylaw ARTICLE X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, as and to ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment; and

(iii) By amending said Article X, Administration and Enforcement, §325-51.H, Single-family dwelling with accessory apartment, now ARTICLE V, Use Regulation, §325-14.T, Single-family dwelling with accessory apartment, as follows (deletions shown in ~~strike-through~~ and proposed language in **bold underline**):

T. Single-family dwelling with accessory apartment.

- (1) Purpose. The intent of permitting accessory apartments is to:
 - a. Increase the number of small dwelling units available for rent in Town;
 - b. Increase the range of choice of housing accommodations;
 - c. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
 - d. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.
- (2) Definitions. **OWNER** One or more individuals holding title to the property.

(3) Criteria, for special permit approval. Special permits for single-family dwellings with a An accessory apartment is allowable within a single-family dwelling, either attached or detached, may be granted upon determination by the Planning Board that provided that the following criteria have been met satisfied:

- a. Only one accessory apartment is permitted for each principal dwelling unit.
- b. The accessory apartment may not be held in separate ownership from the principal use.
- c. Only one of the principal dwelling or accessory apartment may be rented at any given time and, if rented, shall be rented for a term of no less than six (6) consecutive months.
- d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
- e. The accessory apartment shall have not more than two bedrooms.
- f. At least one off-street parking space shall be provided for the accessory dwelling unit apartment.
- g. The minimum lot area required for a parcel ~~to be eligible for a special permit~~ to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District. For parcels existing within an approved Open Space Residential Development or Cluster Subdivision, the lots size shall be consistent with the endorsed plan.
- h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.
- ~~j. The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.~~
- ~~k~~ i. The proposed use shall not exceed the building or site coverage for the zoning district.
- ~~l~~ k. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.

The Building Commissioner shall determine compliance with said criteria following receipt of the application for a building permit for a change of use and/or for construction of the said accessory apartment.

~~(4) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.~~

~~(5) Transfer of ownership. The provisions of the special permit may be transferred with ownership of the property provided the provisions of this section and all other provisions of the Zoning Code of the Town of Harwich and the State Building Code are met and the Planning Department has approved a transfer for the special permit. The new owner also may request a Planning Board certification for the accessory apartment. To obtain such certification, the owner~~

shall submit a written request with a statement that the conditions at the time of the original special permit approval remain unchanged and with a certification of ownership. The Planning Board certification shall be recorded at the Registry of Deeds.

(6) (4) A final determination that the owner **has** failed to comply with these **forgoing criteria** provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred **hereunder** the special permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse **are null and void** and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted; or take any other action thereon.

Any person interested or wishing to be heard on these zoning proposals should appear at the time and place designated. The full text for the proposed amendments can be found on the Town Website <http://www.harwich-ma.gov/planning-board>, and in the Community Development and Town Clerk Offices at Town Hall, at the address noted above, during normal business hours.

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

James Joyce, Chair

Cape Cod Chronicle Print Dates: 2/21/19, 2/28/19

Harwich Planning Board Legal Notice - Proposed Zoning Amendments

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ARTICLE: - Zoning Bylaw Article Freestanding Portable Sign

To see if the Town will vote to amend the Town's Zoning Bylaw §325-2 Word usage and definitions and by addition a new §325-26.K as follows:

Within §325-2 delete the existing definition of "A-Frame/Easel/Sandwich-Board Signs" and replace with the following definition: "**FREESTANDING PORTABLE SIGN**" – A single or double-faced, self-supporting sign made of wood, cardboard, plastic, metal or other lightweight and rigid material.

And, add a new §325-26.K to read as follows:

K. Freestanding Portable Sign.

- (1) A sign permit from the Building Department shall be required;
- (2) The area of the sign shall be no more than six (6) square feet per side;
- (3) The sign height above the ground shall not exceed three (3) feet;
- (4) The sign width shall not exceed three (3) feet;
- (5) The sign shall be unlit, shall be inaudible, and shall have no moving parts (except any necessary hinge to fold and unfold said sign);
- (6) The sign shall be stable and have no external supports;
- (7) The sign area (one side only) shall count towards the total allowable sign area (in square feet) for the business, pursuant to §325-27
- (8) The sign shall indicate no more than the name of the business, a special event, hours of operation, sale of a product or service, and price;
- (9) Only one (1) freestanding portable sign per business may be located on a property; a business with street frontage on two (2) streets may have no more than one (1) such sign on each street front; however, if there are multiple businesses on a property, there shall be no more than one (1) such sign per business, regardless of the street frontage;
- (10) The sign may only be displayed up to two (2) hours before the business is open to the general public and during the time business is open to the general public; and
- (11) The sign shall also comply with the requirements of §325-26.D-G, above;

or take any other action thereon.

ARTICLE: - Zoning Bylaw Article Retaining Wall(s) for Septic Systems

To see if the Town will vote to amend the Town's Zoning Bylaw §325-16, Table 2 and to add a new subparagraph "R. Retaining Wall(s) for Septic Systems" to §325-18, as follows:

§325-16, Table 2, add a Note "3" to the "Front (feet)", "Side (feet)", and "Rear (feet)" columns, which shall read as follows: "3May be reduced to 10 feet for Septic System pursuant to §325-18.R."

And,

§325-18 add a new subsection “R. Retaining Wall(s) for Septic Systems” to read as follows:
“R. Retaining Wall(s) for Septic Systems. The provisions of §325-17 notwithstanding, on an improved parcel, a retaining wall(s) associated with the installation of a septic system (e.g. mounded septic system) required by the Board of Health and/or Title 5, shall be setback no less than 10 feet to any lot line;

or take any other action thereon.

Any person interested or wishing to be heard on these zoning proposals should appear at the time and place designated. The full text for the proposed amendments can be found on the Town Website <http://www.harwich-ma.gov/planning-board>, and in the Community Development and Town Clerk Offices at Town Hall, at the address noted above, during normal business hours.

In accordance with state law, this legal notice will also be available electronically at ‘www.masspublicnotices.org.’ The Town is not responsible for any errors in the electronic posting of this legal notice.

James Joyce, Chair

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ARTICLE: - Zoning Bylaw Article Special Provisions for Lifting Existing Structures to New Appropriate Elevations

To see if the Town will vote to amend the Town's Zoning Bylaw Article XVII – Flood Plain Regulations by 1) changing §325-108 Definitions to §325-109 Definitions and 2) adding a new §325-108 “Special Provisions for Lifting Existing Structures to New and Appropriate Elevations” and by adding four new definitions, alphabetically, to the new §325-109 Definitions, and further to amend §325-2 Word usage and Definitions “Building/Structure Height” paragraph B by deleting the existing language and replacing it, as follows:

§325-108 Special Provisions for Lifting Existing Structures to New and Appropriate Elevations

- (1) Notwithstanding the provisions of any other provision of the Harwich Zoning By-law to the contrary, except as otherwise provided pursuant to paragraph (3) of this subsection, a person shall be allowed to lift an existing structure located in an Area of Special Flood Hazard to a new and appropriate elevation, or constructing a staircase or other attendant structure necessitated by such raising without the need for Board of Appeals relief, provided, however, this exemption shall apply only to the minimum extent or degree necessary to allow the structure to meet the new and appropriate elevation with adequate means of ingress, egress and accommodation of typical basement facilities.
- (2) Appurtenant to lifting an existing structure, the existing structure may be relocated elsewhere on the lot as long as said relocation does not create a new, or increase the intensity of a setback nonconformity.
- (3) The exemption established pursuant to paragraph (1) of this subsection shall not be available to a person who has altered or is seeking to alter the original dimensions of a structure if, had the alteration not been made, the structure could have been raised to meet the new and appropriate elevation either without the exemption or with an exemption of lesser degree than is needed with the alteration.

And,

§325-109 Definitions, as the following:

ATTENDANT STRUCTURE means an area to accommodate utilities, laundry facilities or mechanicals which are otherwise typically located within a basement area.

EXISTING STRUCTURE means any commercial or municipal structure or residential dwelling that currently exists, or existed prior to the catastrophic event, at the time a request is made to elevate.

HIGHEST APPLICABLE FLOOD ELEVATION STANDARD means the one-percent (1%) FEMA base flood elevation plus up to an additional three (3) feet.

NEW AND APPROPRIATE ELEVATION means any elevation to which a structure is raised, or is to be raised, that is equal to or higher than the applicable FEMA base flood elevation, provided, however, in no case shall the new and appropriate elevation exceed the highest applicable flood elevation standard.

And,

§325-2 Building/Structure Height

B. For a building or structure located within an area of special flood hazard, refer to §325-108;
or take any other action thereon.

Any person interested or wishing to be heard on these zoning proposals should appear at the time and place designated. The full text for the proposed amendments can be found on the Town Website <http://www.harwich-ma.gov/planning-board>, and in the Community Development and Town Clerk Offices at Town Hall, at the address noted above, during normal business hours.

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