

Harwich Planning Board Agenda
Thursday, June 25, 2020 – 6:30 PM
Griffin Room, Town Hall, 732 Main Street, Harwich
This meeting will be held VIA REMOTE PARTICIPATION.
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- 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. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in as specified above on this agenda.
- II. Public Hearing:** *The following hearings were originally schedule for June 9, 2020; however the Chairman cancelled the meeting, abutters were renotified via regular mail.*
 - A. PB2020-13 Davenport Companies Inc.,** applicant, c/o John M. O'Reilly, PE, PLS, representative, seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C12 in the R-M District. ***Please Note: the applicant has requested a continuance of this hearing to July 14, 2020.***
 - B. PB2020-14 Davenport Companies Inc.,** applicant, c/o John M. O'Reilly, PE, PLS, representative, seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C11 in the R-M District. ***Please Note: the applicant has requested a continuance of this hearing to July 14, 2020.***
- III. Public Meeting***
 - A. New Business:**
 - 1. PB2020-18 Aaron & Debrah Gingras,** applicant, c/o Paul E. Sweetser, PLS, seeks endorsement of a two (2) lot Approval Not Required plan entitled "Plan of Land in Harwich, Massachusetts, as prepared for Aaron T. & Debrah J. Gingras, scale 1"=40', dated June 3, 2020, prepared by Paul E Sweetser, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 207 Follows Road, Map 60, Parcel H3-4. The parcels are in the R-M zoning district.
 - B. Meeting Minutes:** May 28, 2020
 - C. Old Business:**
 1. Continued discussion on draft amendment to Multi-family Dwelling related Bylaws
 2. Discussion on new Town Meeting date and vote on need to hold new public hearing for the zoning amendments related to "Essential Services"
 - 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, July 14, 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

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

AGENDA ITEMS: II.A & II.B

June 17, 2020

To: Planning Board
From: Charleen Greenhalgh
Re: Davenport Case PB2020-13
Davenport Case PB2020-14

The hearings for each of these cases **must** be opened at the June 28, 2020 Planning Board Meeting.

Davenport Case PB2020-13

The Applicant has requested a continuance of this hearing to July 14, 2020.

Recommended Motion: Move to continue case PB2020-13 Davenport Companies Inc. to Tuesday, July 14, 2020 not earlier than 6:30 pm.

Davenport Case PB2020-14

The Applicant has requested a continuance of this hearing to July 14, 2020.

Recommended Motion: Move to continue case PB2020-14 Davenport Companies Inc. to Tuesday, July 14, 2020 not earlier than 6:30 pm.

Charleen Greenhalgh

From: John O'Reilly <joreilly@jmoreillyassoc.com>
Sent: Wednesday, June 17, 2020 1:02 PM
To: Charleen Greenhalgh
Subject: RE: Harwich Planning Board Cases PB2020-13 & 14

Yes please Charleen,
Thank you
John

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Charleen Greenhalgh <cgreenhalgh@town.harwich.ma.us>
Date: 6/17/20 12:59 PM (GMT-05:00)
To: John O'Reilly <joreilly@jmoreillyassoc.com>
Subject: RE: Harwich Planning Board Cases PB2020-13 & 14

Hi John:

Just confirming that the applicant is requesting a continuance of the public hearings for Planning Board Cases PB2020-13 and PB2020-14 to Tuesday, July 14, 2020 not earlier than 6:30pm.

Respectfully,
Charleen

Charleen Greenhalgh
Town Planner
Town of Harwich
732 Main Street
Harwich, MA 02645
508-430-7511
508-430-4703 fax
cgreenhalgh@town.harwich.ma.us

From: John O'Reilly [mailto:joreilly@jmoreillyassoc.com]
Sent: Wednesday, June 17, 2020 12:56 PM
To: Charleen Greenhalgh <cgreenhalgh@town.harwich.ma.us>
Subject: RE: Harwich Planning Board Cases PB2020-13 & 14

At the request of The Davenport Company we kindly request a continuance for BOTH hearings to the next available meeting. The applicant is trying to meet up with the owner and given the current situation is having difficulty.

Please let me know if you need anything else for the continuance. We apologize for the delay in getting back to you

Thank you

John

Sent from my Verizon, Samsung Galaxy smartphone

June 16, 2020

Agenda Item III.A.1

To: Planning Board
From: Charleen Greenhalgh, Town Planner
Re: Staff Report – Approval Not Required (ANR) Plan

PB2020-18 Aaron & Debrah Gingras, applicant, c/o Paul E. Sweetser, PLS, seeks endorsement of a two (2) lot Approval Not Required plan entitled “Plan of Land in Harwich, Massachusetts, as prepared for Aaron T. & Debrah J. Gingras, scale 1”=40’, dated June 3, 2020, prepared by Paul E Sweetser, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 207 Follows Road, Map 60, Parcel H3-4. The parcels are in the R-M zoning district.

The application was received on June 10, 2020. Pursuant to MGL c.401, §81P, the Planning Board has 21-days to act and file a decision with the Town Clerk, that date would have been June 4, 2020. As the Board may recall, an emergency order was enacted which as of March 10, 2020 put a stay on all timelines.

Pursuant to MGL c.41, §81.L the lot(s) created must have, *frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.*

The Board may:

- 1) Vote to endorse the ANR; or
- 2) Deny the ANR specifically ***detailing*** why it does not meet the requirements for endorsement as an ANR; or
- 3) Take no action; which would result in the Town Clerk certifying that the Planning Board took no action within the statutory time.

Staff comments:

Planning:

1. Each lot shows the required frontage along Follows Road.
2. **Most important**, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over.

Police and Fire: No comments

Conservation: The Conservation Department does not have any issues with the lot reconfiguration. There are wetlands in the area and if any development is proposed it may be within Conservation Commission jurisdiction and would need to file for approval.

Health: Comments are anticipated for the meeting.

Findings (vote to adopt):

*This is a **positive finding** the Board may choose to make:*

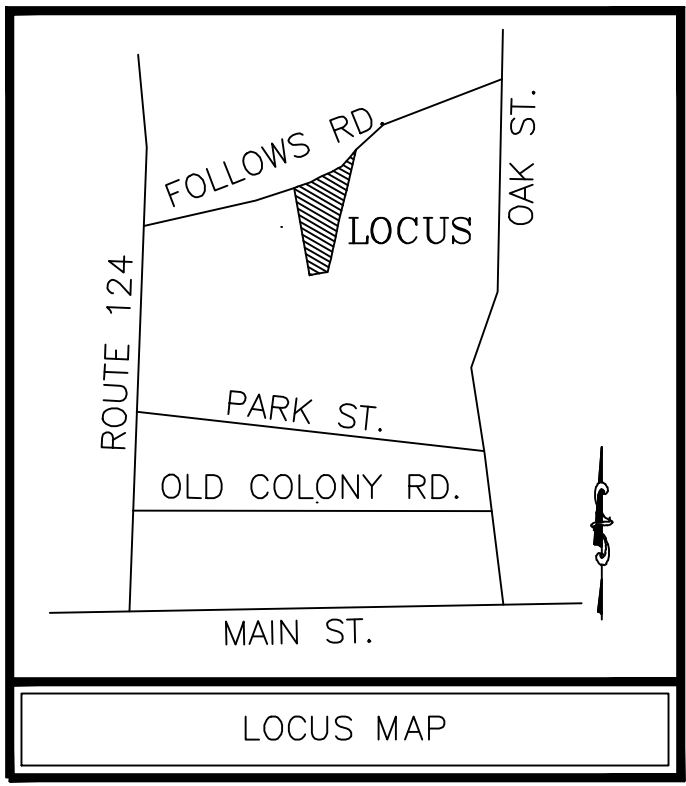
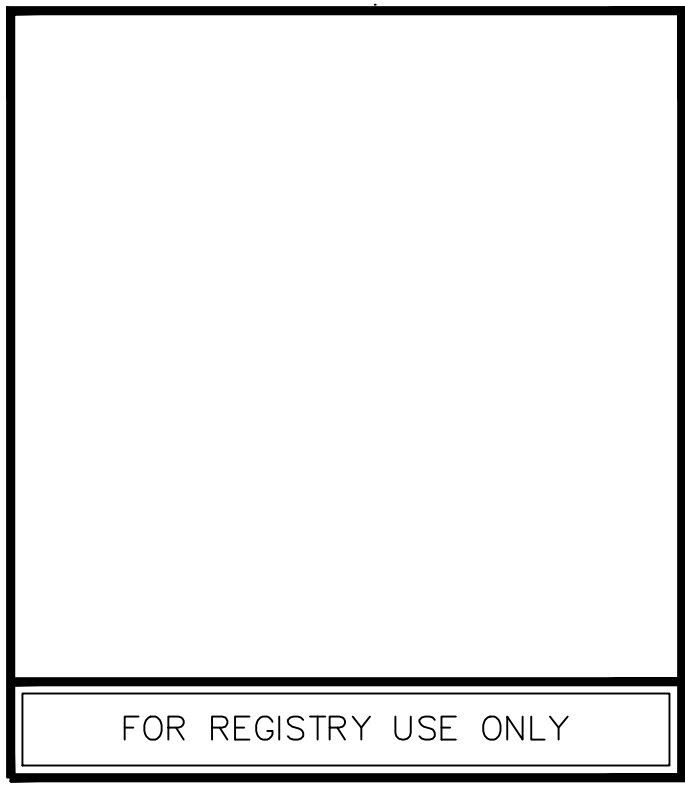
Said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

*This is a **negative finding** (denial) the Board may choose to make:*

The way shown on the plan does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Board Vote on Endorsement: *This is a suggested motion, the Board may choose to deny or to take no action.*

Motion to endorse (or deny) the ANR plan entitled “Plan of Land in Harwich, Massachusetts, as prepared for Aaron T. & Debrah J. Gingras, scale 1”=40’, dated June 3, 2020, prepared by Paul E Sweetser, PLS.



ASSESSORS MAP: 60

PARCELS: H3-4

ZONING CLASSIFICATION: R-M

REQUIRED:
AREA-40,000 SQ.FT.
FRONTAGE-150'
SETBACKS:
FRONT-25'
SIDE-20'
REAR-20'

DEED REFERENCES-
BK. 26060 PG. 100

PLAN REFERENCES-
PL.BK. 658 PG. 059
PL.BK. 655 PG. 066

AREA-
92,583 SQ.FT.±
2.12 ACRES±

LINDA R. HALL
BK.1645 PG.295
PL.BK. 256 PG. 95

FOLLOWS ROAD
UNDEFINED WAY

LOT 2
43,503 SQ.FT.±
1.00 ACRES±
1,339.30 PERIMETER

THIS LOT IS TO BE USED
IN CONJUNCTION WITH
OTHER PROPERTY
BELONGING TO AARON T.
GINGRAS & DEBRAH J.
GINGRAS

OWNER/PETITIONER:
AARON T. GINGRAS &
DEBRAH J. GINGRAS
204 OAK STREET
HARWICH, MA 02645

LOCUS ADDRESS:
207 FOLLOWS ROAD
HARWICH, MA

AARON J. & KATHLEEN M.
GINGRAS
BK.29132 PG.350
PL.BK. 658 PG. 59

THIS PLAN SHOWS THE DIVISION OF LOT 2 AS
SHOWN IN PLAN BOOK 658 PAGE 59 INTO TWO
LOTS.

I CERTIFY THAT THIS PLAN CONFORMS TO THE 1976
RULES AND REGULATIONS OF THE REGISTERS OF
DEEDS.

DATE _____ PROFESSIONAL LAND SURVEYOR

APPROVAL NOT REQUIRED
UNDER THE SUBDIVISION CONTROL LAW

APPLICATION DATE _____

ENDORSED DATE _____

HARWICH PLANNING BOARD
NO DETERMINATION OF COMPLIANCE WITH ZONING
REQUIREMENTS HAS BEEN MADE OR IS INTENDED.

SHED

GARAGE

SHED

LOT 1
49,080 SQ.FT.±
1.13 ACRES±
1,141.13 PERIMETER
SHAPE NUMBER
=26.53

LOT 1
MODIFIED
40,014 SQ.FT.±
0.92 ACRES±
923.66 PERIMETER
SHAPE NUMBER
=21.32

MODIFICATION LINE

PETER J. NELSON ET AL
BK.5130 PG.314

EVAN W. & KIMBERLY
SOKALE
BK.30260 PG.93
PL.BK.283 PG.31

PLAN OF LAND IN HARWICH,
MASSACHUSETTS
AS PREPARED FOR
AARON T. & DEBRAH J. GINGRAS

JUNE 3, 2020



PAUL E. SWEETSER
PROFESSIONAL LAND SURVEYOR
P.O. BOX 1146
DENNISPORT, MA
02639

SCALE: 1"=40'

2570-00

PLAN BOOK 658 PAGE 59

TOWN OF HARWICH PLANNING DEPARTMENT

PLANNING BOARD APPLICATION SUBDIVISION FORM B-1



TO THE TOWN CLERK, HARWICH, MA

DATE JUNE 5, 2020

PART A – APPLICANT INFORMATION/AUTHORIZATION

<u>Applicant Name(s)</u>	AARON & DEBRAH GINGRAS
Representative/Organization (Who will serve as the primary contact responsible for facilitating this application?)	PAUL E. SWEETSER PROFESSIONAL LAND SURVEYOR
Street/PO Box	P.O. Box 1146
Town, ST, Zip	DENNISPORT, MA 02639
Phone	CELL # (508) 737-7560
Fax	
E-mail	paul.sweetser@gmail.com

The applicant is one of the following: (please check appropriate box)

- ☒ Owner ☐ Tenant* ☐ Prospective Buyer* ☐ Representative for Owner/Tenant/Buyer
☐ Other* _____ *Written permission of the owner(s).

All other forms and information as required in the Harwich Code §400 shall be submitted as part of this application including municipal lien certificate(s), available through the Tax Collector's Office.

Authorization

Your signature hereby asserts, to the best of your knowledge, that the information submitted in this application is true and accurate; that you agree to fully comply with the Town of Harwich Zoning By-laws and the terms and conditions of any approval of this application by the Planning Board; and authorizes the Members of the Planning Board and Town Staff to visit and enter upon the subject property for the duration of the consideration of this application.

Applicant

Clark T. Dingle

Owner(s) – Authorization must accompany application if the owner is not the applicant.

Official use only:

PLANNING DEPARTMENT	TOWN CLERK
Case #	

PART B – PROJECT LOCATION

Street Address	<u>207 FOLLOWS RD.</u>		
Village	<u>HARWICH</u>	Zip Code	<u>02645</u>
Map	<u>60</u>	Parcel	<u>H3-7</u>
Zoning District(s)	<u>R-M</u>		
Frontage (linear feet)	<u>150' (REQUIRED), 368.44' TOTAL</u>		
Total land area (SF)	<u>92,583 SF</u>		
Upland (SF)	<u>"</u>	<u>"</u>	Wetlands (SF) <u>N/A</u>
Number of lots and/or parcels	Existing: <u>1</u>	Proposed: <u>2</u>	

The owner's title to said land is derived under deed from DONALD D. JAMIESON, dated DEC. 7, 2011, and recorded in the Barnstable Registry of Deeds Book and Page 26060/100 or registered in Barnstable County Land Court Certificate of Title No. N/A.

PART C – PROJECT DESCRIPTION

Number of lots and/or parcels	Existing: <u>1</u>	Proposed: <u>2</u>
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The undersigned owners of all land described herein submitted in the accompanying plan entitled PLAN OF LAND IN HARWICH, MA AS PREP. FOR ARAN T. & DEBRAH J. GINGERS and dated JUNE 3, 2020, request a determination and endorsement by said Board that approval by it under the **Subdivision**

Control Law MGL Ch. 41 Sec. 81K-GG: (check as appropriate)

☐ is required (complete Part C.1 Subdivision) or ☒ is NOT required (complete Part C.2 ANR)

PART C.1 – Planning Board Approval is Required - Subdivision

1. The accompanying plan is a (check one):
 - ☐ Preliminary plan
 - ☐ Definitive without a preliminary plan
 - ☐ Definitive following a Preliminary plan filed on _____/case # PB _____
 - ☐ Modification of a Definitive plan approved on _____/case # PB _____
 - ☐ Rescission of a Definitive plan approved on _____/case # PB _____
2. The applicant is also requesting a **Special Permit** to accompany the proposed plan for the following (check all that apply):
 - ☐ USE - Does not require Site Plan Review
 - ___ Open Space Residential Development
 - ___ Flexible Cluster Development/Six Ponds Special District
 - ___ Accessory Apartment
 - ___ Two-Family Dwellings
 - ___ Other _____
 - ☐ OVERLAY DISTRICT
 - ___ Water Resource Protection
 - ___ Harwich Center
 - ___ Six Ponds
 - ___ Village Commercial (Harwich Port)

**Note: Projects within the Harwich Center Overlay District may also be within the Harwich Center Historic District. This requires separate filing with the Historic District Commission. Please inquire with the Building Department for forms and instructions.*

PART C.2 – Planning Board Approval is Not Required - ANR

The accompanying plan does not require approval by the Planning Board because:

- ☒ 1. The lots are created on an approved way, with proper frontage and are served by safe and adequate access as follows:
- a. Every lot shown on the plan has frontage of at least such distance as is presently required by the Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet for erection of a building on such lot, **and**;
 - b. The lots shown on such plan front on one of the three types of ways specified in Chapter 41, Section 81L, MGL, **and**;
 - ☐ a public way or a way that the Harwich Town Clerk certifies is maintained and used as a public way namely _____, or
 - ☐ a way shown on a plan previously approved and endorsed in accordance with the subdivision control law namely _____ on _____ and subject to the following conditions _____; or
 - ☒ a private way in existence on March 25, 1949, the date when the subdivision control law became effective in the Town of Harwich, and
 - c. The public or private way named above has, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the land abutting or served thereby, and for the installation of municipal service to serve such land and the buildings existing thereon to be erected.
- PROOF OF SAFE AND ADEQUATE ACCESS** – Please attach all necessary documentation to this application for:
- ☐ Determination of Safe and Adequate Access for existing conditions
 - ☐ Satisfaction of Safe and Adequate Access for proposed conditions
- ☐ 2. The accompanying plan is not a subdivision because the plan does not show a division of land.
- ☐ 3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet.
- ☐ 4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to March 25, 1949 the date when the subdivision control law went into effect in the Town of Harwich and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:
- ☐ 5. Other reasons or comments: (See MGL, Ch41, §81-L)

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH
VIA REMOTE PARTICIPATION GoToMeeting.com
TUESDAY, MAY 28, 2020 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chairman, Joseph McParland; Vice-Chairman, Allan Peterson; Mary Maslowski; William Stoltz; Craig Chadwick; Duncan Berry; and Arthur Rouse were all present via remote participation.

BOARD MEMBERS ABSENT: David Harris.

OTHERS PRESENT: Amy Usowski; Katie Tenaglia; Philip Scholomiti; William Crowell; David Treworgy; Mary Alice Treworgy; James Knickman; Sara Osborn; James Knickman; and Jim Gunn.

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

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. 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.

PB2020-11 Gerald E. Burke, 22 Sunrise Road, Use Special Permit with Waivers

Representative: William Crowell, Esq.

Chairman McParland reopened the hearing at 6:32 PM by reading the legal notice into the record. Applicant seek approval of a Use Special Permit, with waivers, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom. The property is located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts. Continued from April 28, 2020.

The hearing began with attorney Crowell explaining that this is a detached structure with bedroom. The garage has been there since 1992. No footprint changes are proposed. An interior renovation is proposed. This will not be a rentable unit. He addressed earlier concerns.

Ms. Usowski read departmental input and the Town Planners report into the record.

Conservation: The majority of the lot is in Conservation Department jurisdiction due to the top of bank and riverfront setback. The existing garage, shed, walls and any other site modifications never received Conservation Commission approval. We cannot approve modification of any of these structures as they were not approved in the first place. An after the-fact filing must be done with the Conservation Commission for these structures. If the Commission approves the filing, then modification of the interior or change of use of the building would not be an issue with this department. Health Department: Although this property is located within a Zone II, a five bedroom septic system was approved and installed in 2017. The proposed apartment could be

approved by the health department if certain septic system requirements are met. Either a two compartment tank, or two septic tanks in series are required. Additionally, the repairs identified in the recent title 5 inspection must be made. The property is limited to five bedrooms maximum. Planning Staff Comments: 1. The applicant's representative was notified March 24, 2020, via email that the application as submitted was incomplete. The revised plan submitted xx addresses the comments/concerns raised by Planning. 2. The comments from Conservation should not impede on the Planning Boards ability to render a decision. 3. Standard conditions are recommended, along with a condition that restricts the rental/letting of this space.

Mr. Crowell stated that his client just bought the property in the past year or two, he is not responsible for the existing structure.

Mr. Chadwick clarified that this is not an application for an accessory apartment. It does not have a full kitchen, and therefore cannot be rented. It was responded that that is correct.

Ms. Maslowski made the motion to close the public hearing at 6:41 PM, seconded by Mr. Peterson, unanimously so voted.

On a motion from Ms. Maslowski and seconded by Mr. Stoltz, the Planning Board voted unanimously (7-0-0) by roll call vote to approve waivers of any and all commercial or residential requirements of the Bylaw that are not applicable to this Petition.

On a motion from Ms. Maslowski and seconded by Mr. Chadwick, the Planning Board voted unanimously (7-0-0) by roll call vote to adopt the following findings:

1. The property is located within the R-M Zoning District.
2. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
3. The site is an appropriate location for such use.
4. The accessory structure will not contain a stove and therefore is not a kitchen and is not an accessory apartment as defined in §325-2 Word usage and definitions "Dwelling, Single-family with Accessory Apartment".
5. The proposed parking area will provide sufficient off street parking which meets the minimum requirements of Town Code and as such, there will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski and seconded by Mr. Chadwick, the Planning Board voted unanimously (7-0-0) by roll call vote to approve with conditions the Use Special Permit and waivers for PB2020-11 Gerald E. Burke, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom for property located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts. The approval is based on the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich with the above findings and following conditions:

1. The accessory structure is not an accessory apartment pursuant to §325-2 Word usage and definitions "Dwelling, Single-family with Accessory Apartment" and shall not contain a kitchen.
2. All Board of Health and Conservation Commissioner requirements shall be met.
3. There shall be no rental or letting of this bedroom space.

4. Any changes of the use or changes to the plan may be subject to further Planning Board review.
5. The special permit decision shall be recorded at the Registry of Deeds.

April 14, 2020 on proposed Amendment to the Harwich Zoning Codes:

At 6:47 PM, Chairman McParland made the motion to re-open the zoning code hearing by reading the legal notice into the record.

Article ____: To amend the Code of the Town of Harwich, §325-4 and Attachment 4 – The Zoning Map, by extending the Industrial (I-L) Zoning District westerly along Queen Anne Road and the existing I-L zoning district as shown on the amended Zoning Map, dated January 23, 2020, a copy of which is on file in the Town Clerk's

It was noted that the Planning Board Chairman has determined that at this time the Board will not be moving forward with this proposed zoning amendment article. The hearing will be reopened and immediately closed, with no testimony taken. The Board will take no action on this proposed amendment.

Ms. Maslowski made the motion to close the public hearing, seconded by Mr. Chadwick, unanimously so voted via roll call (7-0-0).

Note: Mr. Rouse, as an alternate member is not eligible to vote on the ANR applications.

PB2020-15 David Treworgy, 6 & 12 Village Green, Approval Not Required

Representative: David Treworgy

Applicant seeks endorsement of a two (2) lot ANR plan entitled "Plan of Land in Harwich, MA, prepared for E. James Gunn, Janet E. Gunn, Sara Osborn, David Treworgy" dated January 20, 2020, prepared by Terry A. Warner, PLS for property located at #6 and #12 Village Green, Map 13, Parcels L1-6 and L1-7, respectively. The parcels are in the R-M zoning districts.

Ms. Usowski read departmental input and the Town Planners report into the record. Planning: 1. This appears to be a simple land swap between #6 and #12 Village Green. 2. Both lots will retain the required frontage of 150 feet. 3. Most important, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over. Conservation, Police and Fire: No comments Health: No issues or concerns with moving the lot line provided that the setbacks are all still maintained.

On a motion from Ms. Maslowski, seconded by Mr. Stoltz, the Board voted unanimously via roll call vote (6-0-0) to find that said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective in the town and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously via roll call vote (6-0-0) to endorse the ANR plan entitled Plan of Land in Harwich, MA, prepared for E. James Gunn, Janet E. Gunn, Sara Osborn, David Treworgy” dated January 20, 2020, prepared by Terry A. Warner, PLS for property located at #6 and #12 Village Green, Map 13, Parcels L1-6 and L1-7.

PB2020-16 Bryan Murphy, 0 Kendrick Road, Approval Not Required

Representative: Edward Hayes

Applicant seeks endorsement of a two (2) lot ANR entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, prepared by J. Thaddeus Eldredge, PLS for property located at 0 Kendrick Road, Map 108, Parcel P3. The parcels are in the R-R zoning district

Ms. Usowski read departmental input and the Town Planners report into the record. Planning: 1. This appears to be a simple land swap between this parcel and two abutting parcels, which contain sufficient frontage per Note 4 on the plan. 2. Most important, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over. Police and Fire: No comments Conservation: Both parcels will have a portion in Conservation jurisdiction. The department has no issue with the division of the property, but when developed it may be subject to Conservation review. All future construction must be 60’ away from the edge of wetland and any work within 100’ will require mitigation which can be difficult on undisturbed lots. Health: No issues or concerns. If the lots are ever further developed no variances from Title 5 or local requirements will be granted.

On a motion from Ms. Maslowski, seconded by Mr. Berry, the Board voted unanimously via roll call vote (6-0-0) to find that said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective in the town and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously via roll call vote (6-0-0) to endorse the ANR plan entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, prepared by J. Thaddeus Eldredge, PLS. for property located at 0 Kendrick Road, Map 108, Parcel P3.

PB2020-17 James R. Knickman, 0 Deep Hole Road, Approval Not Required

Representatives: William Crowell and Phillip O. Scholomiti

Applicant seeks endorsement of a two (2) lot ANR entitled “Plan of Land in Harwich, MA, showing a division of Lots B-1, C and 2, L.C.P 10688-B”, scale 1”=40’, dated March 6, 2020, prepared by Ryder & Wilcox, Inc., for property located at 0 Deep Hole Road, Map 16, Parcels M1-C and M1-B1. The parcels are in the R-M zoning districts.

Mr. Crowell and Mr. Scholomiti started the meeting off by explaining the petition. Both lots have frontage on Deep Hole Road, which is a public way. The way the Town Planner advised the

engineer to proceed was to have the ANR plan approved, and then subsequently file a special permit for access over something other than the frontage, coming up from the South.

Mr. Chadwick asked about entrance and egress location that was answered by Mr. Scholomiti and Mr. Crowell.

Ms. Usowski read departmental input and the Town Planners report into the record. Planning: 1. Each lot shows frontage along Deep Hole Road; however it appears that access for these parcel would need to be over something other than frontage. 2. Most important, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over. Police and Fire: No comments Conservation: Both parcels will have a portion in Conservation jurisdiction. The department has no issue with the division of the property, but when developed it may be subject to Conservation review. All future construction must be 60' away from the edge of wetland and any work within 100' will require mitigation which can be difficult on undisturbed lots. Health: No issues or concerns. If the lots are ever developed no variances from Title 5 or located requirements will be granted.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously via roll call vote (6-0-0) to find that said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective in the town and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

On a motion from Ms. Maslowski, seconded by Mr. Stoltz, the Board voted unanimously via roll call vote (6-0-0) to endorse the ANR plan entitled "Plan of Land in Harwich, MA, showing a division of Lots B-1, C and 2, L.C.P 10688-B", scale 1"=40', dated March 6, 2020, prepared by Ryder & Wilcox, Inc.,

The Board Members will endorse the plan once the Emergency Order currently in effective is lifted by Governor Baker.

MEETING MINUTES: Vice-Chairman Peterson made the motion to approve the meeting minutes from May 12, 2020 as written, seconded by Ms. Maslowski, unanimously so voted via roll call (7-0-0)

OLD BUSINESS: None.

BRIEFINGS AND REPORTS BY BOARD MEMBERS: None.

ADJOURNMENT:

Ms. Maslowski made the motion to adjourn at 7:14 PM, seconded by Mr. Chadwick, unanimously so voted via roll call (7-0-0).

Respectfully Submitted, Kathleen A. Tenaglia, Board Secretary
Adopted:

Draft Zoning Changes – Multifamily – 03/06/2020

Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

§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

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling	<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)
MRL <u>All Districts</u>	Multifamily residential	10 contiguous acres minimum; 25 contiguous acres maximum; maximum density 8 bedrooms per acre <u>40,000⁴</u>	150	50 <u>Footnote 5</u>	50 <u>25</u>	50 <u>25</u>
MRL-1	Multifamily residential	8 contiguous acres minimum; maximum	150	50	50	50

Draft Zoning Changes – Multifamily – 03/06/2020

Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

<u>All Districts</u>		density 4 bedrooms per acre, provided Planning Board may give a bonus as elsewhere provided in this bylaw <u>40,000⁴</u>		<u>Footnote 5</u>	<u>25</u>	<u>25</u>
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⁴40,000 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

§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 <u>Multifamily residential use all districts</u>	40 <u>50¹</u>	2 ½ <u>4¹</u>	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
MRL-1 <u>Multifamily residential use all districts</u>	40 <u>50¹</u>	2 ½ <u>4¹</u>	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<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>

¹Pursuant to §325-20

§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

Draft Zoning Changes – Multifamily – 03/06/2020

Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

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.~~ **“Reserve”**
- 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.~~ *Note: “Reserve”*
- J. ~~All multifamily dwellings must be connected to a municipal water system.~~ *Note: language moved to new §325-51.Q leave as “Reserve”*
- K. 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.~~ **Reserve**
- 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.~~ *Note: language moved to new §325-51.Q leave as “Reserve”*
-

§ 325-20 Stories for human use or occupation.

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Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

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.

§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.

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

§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.

Draft Zoning Changes – Multifamily – 03/06/2020

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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

- 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 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.**
- 5. 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.**
- 6. 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.**

7. **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 subdivision.**
8. **Setback and other requirements.**
 - a. **Front setback requirements shall be determined at the time of site plan review based on existing development patterns and the elements of the proposed project.**
 - b. **Side lot line setback shall be 25 feet.**
 - c. **Rear lot line setback shall be 25 feet.**
 - d. **Parking shall be permitted at the side or rear of the property.**
 - e. **Maximum site coverage shall not exceed 80%.**
 - f. **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**
 - g.

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

June 16, 2020

To: Planning Board
From: Charleen Greenhalgh, Town Planner
Re: Zoning Amendments Related to Essential Services

As you are aware, the May Annual Town Meeting was canceled due to the COVID-19 Emergency and a new date of September 28, 2020 has been set by the Board of Selectmen.

The Planning Board held a hearing for the proposed zoning amendments related to the term “Essential Services” on February 25, 2020. Pursuant to MGL c.40A, §5 “*If a...town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice...*” The 6 month period will expire on August 25, 2020.

It is unclear if this time limit was also stayed/tolled due to the COVID-19 Emergency, so it is my recommendation that the Board vote to refer the Essential Services related amendments back to the Board of Selectmen to begin a new public hearing process.

The original proposed amendment is noted below for your convenience. The Planning Board members present at the hearing held February 25, 2020 did vote unanimously to recommend the zoning bylaw amendment to the Town Meeting.

Article ____: To see if the Town will vote to amend the Code of the Town of Harwich – Zoning by deleting the definition of “Essential Services” within §325-2 – Definitions and by deleting within §325-13 – Table 1, Paragraph II – Public and Quasi Public Uses, Item 3 – Essential services; facility, utilities.

Explanation:

The existing definition of *ESSENTIAL SERVICES*: “*Services and appurtenant structures, facilities, uses or equipment provided by governmental agencies, including the Town of Harwich, or provided by public utility or public service companies, including but not limited to water distribution systems, Town-owned marinas, docking areas, fish piers, off-loading facilities, retaining walls, jetties and similar structures, gas and electric distribution, systems for telecommunications and sewerage systems.*” and the definitions of *MUNICIPAL USE*: “*A use, whether in a structure and/or on a parcel of land, owned and/or operated by the Town of Harwich.*” are in conflict with one another. All Municipal Uses are allowable by right, as are public utility uses (i.e. gas, electric, cable, cell). By deleting the definition of Essential Services it would eliminate this unnecessary conflict.

Recommended Motion: Move to refer the zoning bylaw amendment related to Essential Services to the Board of Selectmen so that the required public hearing process can begin and so that this article can be included in the September Town Meeting Warrant.