**ZONING BOARD of APPEALS PUBLIC HEARING**

**Wednesday, October 26, 2016 at 7:00 p.m.**

**Griffin Meeting Room, Harwich Town Hall**

**MINUTES**

On Wednesday, October 26, 2016 at 7:00 PM, the Harwich Zoning Board of Appeals held a Public Hearing in the Griffin Meeting Room at the Harwich Town Hall, 732 Main Street to hear the following cases.

7 PM: Call to Order Members Present: Mr. Ryer, Mr. Previd, Ms. Muller, Mr. Hilliard and Mr. Campbell

**Case #2016-25**

Andrew P. Mele and Kimberly A. Mele have applied for a Special Permit to construct a new porch and living room addition with a 2nd story deck. The application is pursuant to the Code of the Town of Harwich §325 Table 2, Area Regulations, §325-54.A.(2) as set forth in MGL Chapter 40A §6. The property is located at 17 Green Needle Lane, Map 5, Parcel N2-3 in the RH-1 Zoning District.

Members voting on this case: Mr. Ryer, Mr. Previd, Ms. Muller, Mr. Hilliard and Mr. Campbell

Presenting the case were the Owner/Applicants, Andrew and Kimberly Mele who told the Board that the house was built in the 1980’s but is in need of updating. This case is in front of the Board because the proposed enclosure of the existing porch area will encroach on the side setback an additional 2 feet. Mr. Mele offered 2 letters of support from abutters which were then added to the file and read by Mr. Ryer. One was from Vincent Costello of 21 Green Needle Lane and the other was from Jack & Carol Hanlin of 66 Shore Road.

Mr. Hilliard asked if the Applicants were looking to extend a pre-existing non-conformity and Mr. Mele answered in the affirmative. The house was built when the required side and rear setbacks were 10 feet. The current requirement is 20 feet.

Ms. Muller and Mr. Previd had no comments. Mr. Campbell said he thought the Gale Case applied. Mr. Ryer agreed and added that with no objections from abutters and 2 letters of support, the addition would not be substantially more detrimental to the neighborhood than the current structure. There were no public comments.

Mr. Previd made a motion to close the Public Hearing and Ms. Muller seconded the motion. The Board voted unanimously in favor.

**Mr. Previd then moved and Ms. Muller seconded the motion to GRANT the SPECIAL PERMIT** To construct a new addition with a porch and a 2nd story deck according to the plans submitted, reviewed and stamped by the Zoning Board of Appeals including building drawings and a Certified Plot Plan from Moran Engineering dated 9/1/16. **The Board voted unanimously in favor. 5-0-0**

**Case #2016-26**

Paul M. Jirak and the Estate of Robert L. Park, by their agent, Richard J. Roy have applied for a Special Permit to replace an existing roof deck with a Master Bedroom addition as well as to add 2 new roof decks on a pre-existing non-conforming dwelling. The application is pursuant to the Code of the Town of Harwich §325 Table 2, Area Regulations, §325-54.A.(2)(c) as set forth in MGL Chapter 40A §6. The property is located at 16 Braddock St., Map 7, Parcels F-9 in the RH-1 Zoning District.

Members voting on this case: Mr. Ryer, Mr. Previd, Ms. Muller, Mr. Hilliard and Mr. Campbell

Attorney William Crowell presented for the Applicants in lieu of Mr. Roy was was attending to his ill wife.

Mr. Ryer read into the record a Memo from the Harwich Health Department stating that the septic system would need updating because of the proposed addition.

Attorney Crowell restated the details of the narrative and added that both building and site coverage would be slightly increased but below the limit. He added that the southerly façade which is currently brick-faced and not in the Cape Cod style would be changed to wood siding. The proposed deck will be supported and be slightly closer to the lot line (from 12.5’ to 9.7’) There will be nothing closer to the street lot line. Attorney Crowell argued that the Gale Case applies as the Applicants are not adding any new non-conformity but are looking to intensify an existing non-conformity. The deck will not pose any substantial detriment to the neighborhood and asked that the Board grant the requested Special Permit.

Mr. Hilliard asked if the request includes the 2nd floor master bedroom and Attorney Crowell answered that because the petitioner is asking to add living space to an increased height within the same footprint, under the Harwich Bylaws, he needs to request a Special Permit.

Ms. Muller asked what the height of the new bedroom would be and Attorney Crowell assured the Board that it would be under the 30’ limit. Mr. Ryer, Mr. Campbell and Mr. Previd had no objections.

Ms. Muller made a motion to close the Public Hearing and Mr. Previd seconded the motion. The Board voted unanimously in favor.

**Mr. Previd then moved and Mr. Hilliard seconded** the motion to **GRANT the Special Permit**

to replace an existing roof deck with a Master Bedroom addition and to add 2 new roof decks on the pre-existing, non-conforming single family dwelling at 16 Braddock Street according to the plans provided, reviewed and stamped by the ZBA including building plans and a Certified Plot Plan by Clark Engineering LLC and Outermost Land Surveyors dated 8/19/16 and revised 9/16/16.

**The Board voted unanimously in favor. 5-0-0**

**Case #2016-27**

Derek P. Jordan and Katharine Jordan have applied for a Special Permit to change the existing use of a garage with storage space above to a garage with an Accessory Apartment, or in the alternative, an Accessory Building with a Bedroom. The application is pursuant to the Code of Harwich §325 Table 1, Use Regulations and§325-2, Definitions. The property is located at 1092 Queen Anne Rd., Map 75, Parcel S-3 in the RR Zoning and WR (Water Recharge Overlay) Districts.

Members voting on this case: Mr. Ryer, Mr. Previd, Ms. Muller, Mr. Hilliard and Mr. Campbell

Mr. Ryer read into the record a Memo from the Harwich Health Department stating that the septic system would need updating because of the proposed changes.

Katharine Jordan, Owner and Applicant told the Board that the main house on the property was built in the 1890’s with small rooms. The Jordans want to care for an elder parent in a space that offers both the family and the “grandmother” space and autonomy. Finishing off the second floor of the garage as an apartment would solve that issue. The couple plan on removing a bedroom from their house in order to comply with Board of Health regulations.

Mr. Ryer asked if the Applicant wanted a Special Permit for an Accessory Apartment or for an Accessory Building Residential with Bedrooms as the requirements are different for each choice. The size of the lot being less than 40,000 sf and the fact that it is in a Water Recharge area make it impossible for the Board to grant a Special Permit for an Accessory Apartment according to §325-54(H). The Applicant said she understood and asked that the Board consider granting a Special Permit for an Accessory Building Residential with a Bedroom and a Bath but no kitchen.

Mr. Hilliard asked if the owners were removing a bedroom and a bath from the main house and Ms. Jordan told him they were removing a bedroom only. Mr. Previd and Mr. Campbell had no objections.

Mr. Ryer told Ms. Jordan that if the Board granted the Special Permit for an Accessory Building with Bedrooms, it would have to be conditional upon receipt of revised plans removing the kitchen. Ms. Muller suggested that the Applicants simply change the designation of the kitchen area to a Living Area.

There were no public comments.

Mr. Previd made a motion to close the Public Hearing and it was seconded by Mr. Campbell. The Board voted unanimously in favor.

**Mr. Previd then moved and Mr. Campbell seconded the motion to GRANT the Special Permit to change the use** of an existing garage to an Accessory Building Residential with a Bedroom and a Bath but no kitchen according to the plans provided, reviewed and stamped by the ZBA including a Certified Plot Plan by Philip Odysseus Scholomiti dated 9/12/16 and Building Plans by Zibrat & McCarthy, LLP, pages A1, A2, A3 and A4 with the condition that revisions to page A5 removing the kitchen be submitted to the Building Department for review and approval by the Zoning Board of Appeals Chair, David Ryer by Friday, November 4, 2016.\*

**The Board voted unanimously in favor. 5-0-0**

In other business, the Board discussed the current ZBA application and requirements for site plans to have the required Zoning Compliance Tables. The Board also received the schedule for the 2017 meeting calendar.

Mr. Campbell made a motion to approve the minutes from the September 28, 2016 meeting. Mr. Previd seconded the motion. The Board voted unanimously in favor.

Mr. Previd then moved (at 8:22 PM) and Mr. Hilliard seconded the motion to adjourn the meeting. The Board voted unanimously in favor.

**\* POINT OF REFERENCE,** The Applicant, Ms. Jordan brought in revised building plans that eliminated the kitchen from page A5. These plans were reviewed and approved by the Board Chair, David Ryer on Thursday, November 3, 2016

Respectfully submitted by Shelagh Delaney