**ZONING BOARD of APPEALS PUBLIC HEARING**

**Wednesday, November 30, 2016 at 7:00 p.m.**

**Griffin Meeting Room, Harwich Town Hall**

**MINUTES**

On Wednesday, November 30, 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.

7:00 PM Call to Order by Chairman, David Ryer.

ZBA Members present: David Ryer, Dean Hederstedt, Franco Previd, Kathleen Muller and James Hilliard.

**Case #2016-28**

James A. Wolf and Sheila M. Wolf, Trustees of the Wolf Realty Trust dated 10/12/10, by their agent, Attorney William D. Crowell have applied for a Special Permit or in the alternative, a Variance to install a new inground pool, surrounding deck, shed and pool mechanicals to a pre-existing non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich §325 Table 2, Area Regulations, §325 Table 3, Height & Bulk Regulations, §325-18.F.(2), Additional Regulations and §325-18.G, Additional Regulations as set forth in MGL Chapter 40A §6. The property is located at 15 Riverway, Map 1, Parcel J1-17 in the RH-1 Zoning District.

Voting on this case: David Ryer, Dean Hederstedt, Franco Previd, Kathleen Muller and James Hilliard.

Presenting along with the applicants was Attorney William Crowell who presented to the Chairman 3 email letters from direct abutters showing their support for the project. Mr.Ryer read into the record the letters from Richard Barry of 14 Riverway, Kathleen Hession of 15 Mill Point Road and Mike Annino of 12 Pine Lane.

Attorney Crowell noted that the neighborhood is referred to as the Mill Point subdivision. He said that the Applicants are looking to extend their pre-existing non-conforming home with a deck which will be bolted to the house and built around an in-ground pool along with an associated shed and mechanics for the pool. He explained that Mrs. Wolf has severe arthritis and needs the regular warm water exercise the pool would offer. The existing non-conformities include the southerly setback which should be 20’ but is 12.6’ and the westerly setback which should be 20’ but is 17.7’. The new deck will be 3’ from the lot line on the westerly and southerly borders. The site coverage will increase from 41.7% to 48.7%. Attorney Crowell argued that the Gale Case applied because the Applicants are looking to intensify an existing non-conformity, not create any new nonconformity and that the project will not be a substantial detriment to the neighborhood. He offered that there would be no significant increase in noise, congestion, fumes, traffic or the like. He asked that the Board grant the Special Permit.

There were no public comments.

Mr. Hilliard asked if there had been any previous relief from the Zoning Board of Appeals and Mr. Wolf answered that, yes, in 1991, he and his wife bought the house and rebuilt on the original footprint which had setbacks appropriate to an earlier Code.

Ms. Muller asked how many square feet were in the house and how many weeks a year the couple spent there. Mr. Wolf answered that he thought the house was in the “high 3000’s” and that he and his wife typically come to the Cape in mid May and stay through September. Mr. Hederstedt said he believed that the Gale Case applied in that there would be no new non-conformity but only intensifications of existing ones. Mr. Previd asked for clarification on how the deck would be attached to the house and Attorney Crowell told him that it would be bolted to the house and therefore a part of the house triggering the intensification of the house’s non-conformities. Mr. Previd asked about the safety features regarding gates and doorways to the pool and Mr. Wolf assured the Board that they would be following all applicable safety codes.

A motion was made by Mr. Hederstedt to close the public hearing which was seconded by Mr. Previd. The Board voted unanimously in favor.

Mr. Hederstedt then moved and Mr. Hilliard seconded the motion to GRANT the SPECIAL PERMIT to build the deck, inground pool, shed and pool mechanicals according to the plans provided and stamped including 5-pages of building plans dated 11/30/2016 and a certified Plot Plan by Moran Engineering Associates, LLC dated 9/19/2016, the Board having found that the Gale Case applies in that there will be no new nonconformity but only intensifications of existing non-conformities and that there will be no substantial detriment to the neighborhood.

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

**Case # 2016-29**

John P. Fougere and Heidi E. Fougere by their agent, Leslie E. Schneeberger have applied for a Special Permit to construct additions to a pre-existing, non-conforming single family dwelling, consisting of a one-bay garage and first floor finished space with a full basement. The application is pursuant to the Code of the Town of Harwich §325 Table 2, Area Regulations, §325-51.E(4)(d) as set forth in MGL Chapter 40A §6. The property is located at 15 Alder Lane, Map 80, Parcel D-139 in the RR Zoning District.

Voting on this case: David Ryer, Dean Hederstedt, Franco Previd, Kathleen Muller and James Hilliard.

Presenting with the applicants was Leslie Schneeberger of SV Design who restated the details of the application and added that the Fougeres needed to expand their house as their family is expanding. They love their current neighborhood and do not want to move, regardless of the 2-bedroom restriction on their house. She told the Board that the project will include creating a new garage with a finished basement below, an expansion of the dining room into what is currently the garage and changes to the 2 bedrooms as well as the entry way. Because the project will only be intensifying existing non-conformities on the north and south setbacks and creating no new ones, Ms. Schneeberger said she believed that the Gale Case applies. She added that the site coverage will remain below the limit of the Town Code.

Mrs. Fougere spoke of how she couldn’t imagine leaving the neighborhood which they loved so much and so the couple opted for a renovation project in an attempt to increase their living space to accommodate their 4 children.

There were no other public comments.

The Board asked for clarification on whether the renovated house would still be a 2 bedroom house and they were assured that it would.

Mr. Hederstedt moved and Mr. Previd seconded the motion to close the public hearing. The Board voted unanimously in favor.

Mr. Hederstedt then moved and Mr. Hilliard seconded the motion to **GRANT the SPECIAL PERMIT to construct an addition** with a 1-bay garage and finished area below to a pre-existing, non-conforming single family dwelling according to the plans stamped and provided including building plans dated 3/30/16 by Siemasko + Verbridge, pages X1.1, A1.1, A1.0, A2.1 and A2.2 and a Certified Plot Plan by J. M. O’Reilly & Assoc., Inc. dated 6/23/16, the Board having found that the Gale Case applies as the project will be an intensification of existing non-conformities, will add no new non-conformities and will not be a significant detriment to the neighborhood. The Board voted unanimously in favor. 5-0-0

Mr. Hederstedt made a motion and Ms. Muller seconded the motion to accept the Minutes of the October 26th meeting and the Board voted unanimously in favor.

The Board then discussed a suggested Zoning Compliance checklist offered by Mr. Hilliard as a possible addition to the ZBA Application. All understood the need for consistency when it comes to Zoning Compliance information but no decision was reached on whether applications should be turned away if they were missing any of that information and if the additional paperwork should be added to the Application.

Mr. Hederstedt moved and Mr. Ryer seconded the motion to adjourn the meeting. All voted unanimously in favor.

Public Comments:

Motion to close the public hearing: DH KM FP JB JH DR

SECOND DH KM FP JB JH DR

Motion to GRANT DENY CONTINUE

DH KM FP JB JH DR

Second DH KM FP JB JH DR

Conditions

Motion to accept the Minutes of the October Meeting

DH KM FP JB JH DR

Second DH KM FP JB JH DR

Motion to Adjourn

DH KM FP JB JH DR

Second DH KM FP JB JH DR

 In other business, the Board will address the following agenda items:

Approval of minutes from the October 26, 2016 meeting.

New Business per the Board’s discretion.

Authorized Posting Officer: Shelagh Delaney, sdelaney@town.harwich.ma.us

Board of Appeals Recording Clerk