**ZONING BOARD of APPEALS PUBLIC HEARING**

**Wednesday, April 26, 2017 at 7:00 p.m.**

**Griffin Meeting Room, Harwich Town Hall**

**AGENDA**

On Wednesday, April 26, 2017 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.

**Case #2017-04 (Continued)** Habitat for Humanity of Cape Cod, Inc. c/o Attorney Warren H. Brodie, has applied for a Comprehensive Permit pursuant to MGL Chapter 40B Sections 20-23 and 760CMR 56.00, to create an eight lot subdivision to provide for 6 new single family affordable homes, 2 “market rate” lots and a cul-de-sac. The property is located at 93 and 97 Route 28, Harwich, Map# 10, Parcels #W3-B and W5 located in the R-L Zoning District.

Vickie Goldsmith, Executive Director of Habitat for Humanity of Cape Cod requested a continuance of the case and asked about possible May dates. Mr. Ryer stated that the Board had previously advised Habitat that it was available on May 10th. Ms Goldsmith stated that Habitat was not available on that date. Mr. Ryer explained that because of the public interest in this case, his preference was to have the regular Board members at each hearing and voting on the case, although Mr. Donahue, an alternate, would view the video recording of the hearing he missed and be available, although he still preferred to have the regular members on the case, if possible. He stated that Mr. Hederstedt was not available on May 28th, and that he had posed a number of questions to Habitat, none of which had been yet answered and that the next regular meeting that all the Board members would be present at was on June 28th. He also said that it would be difficult to hold special meetings in July and August. He stated that if the Board runs into a time issue in the requirement to close the hearing within 180 days of its opening, which would occur around September 4th, that in light of the several continuances granted Habitat, the Board would ask Habitat for a letter extension. Ms. Goldsmith said that she understood. Mr Ryer concluded that the Board would try to finish the case during the June, July and August meetings, the dates of which were given to Ms. Goldsmith at her request. Mr. Hederstedt moved and Ms. Muller seconded the motion to continue Case #2017-04 until 7:00p.m**.** June 28, 2017. The Board voted unanimously in favor. 5-0-0

**Case #2017-13**

Colleen E. Buckley and Joseph G. Labelle, through their agent, Gordon Hatch, have applied for a Special Permit or in the alternative, a Variance to construct an entry way/mudroom addition to a conforming single family residence. The application is pursuant to the Code of the Town of Harwich §325 Table 2, Area Regulations, §325-52 and §325-54. A.2 as set forth in MGL Chapter 40A §6 and §10. The property is located at 77 Nor’East Drive, Map 87, Parcel F32 in the RR Zoning District.

Joseph Labelle and Colleen Buckley presented their case and asked for a Variance to add an entry area/mudroom which would decrease the westerly setback of their house to less than what is required. They said they believed that their house was conforming.

Ms. Muller said she believed that the applicants were creating a new non-conformity and that the proper mechanism to achieve that is a Variance. Mr. Hederstedt spoke of the requirements of a Variance. Mr. Ryer recommended that the Applicants withdraw without prejudice. Applicants did request a withdrawal without prejudice. Mr. Hederstedt moved and Mr. Donoghue seconded the motion to grant the withdrawal without prejudice. The Board voted unanimously in favor. 5-0-0

**Case #2017-14**

Susan Cyr, Trustee of the Cyr Nominee Trust dated 5/29/09, by her agent, Attorney William Crowell has applied for a Special Permit or in the alternative, a Variance to construct a sunroom and entry porch onto a pre-existing, non-conforming single family residence. 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 118 Headwaters Drive, Map 81, Parcel A37 in the R-R Zoning District.

Attorney William Crowell presented the case for the Applicants and stated that the property is located on the corner of Wallace Road and Headwaters Drive. The proposed addition will meet the setback requirements from Headwaters Drive. The building and site coverage are already non-conforming so the addition will intensify those non-conformities. The southerly side of the proposed sunporch will be 28 feet from the street. He argued that the Gale Case applies because of the intensification of an existing nonconformity, no new non-conformity and that the proposed addition would not be a substantial detriment to the neighborhood. He asked that the Board grant the requested Special Permit.

Mr. Ryer asked for and was given clarification on the existing setbacks for the rear of the house.

Mr. Hederstedt moved and Mr. Donoghue seconded the motion to GRANT the Special Permit according to the plans submitted to construct the sunroom and entry porch onto the pre-existing, non-conforming residence according to the ruling of the Gale Case finding that the proposal will intensify existing non-conformities, add no new non-conformity and will not be substantially detrimental to the neighborhood. The Board voted unanimously in favor. 5-0-0

The Board deferred further discussion on changes to the Rules and Regulations as well as the Application changes until the next meeting.

Dean Hederstedt moved to close the hearing and Mr. Previd seconded the motion. The Board voted unanimously in favor. 5-0-0

Shelagh Delaney, Board of Appeals Recording Clerk