**Harwich Planning Board**

**Harwich Town Hall**

**732 Main Street**

**Donn B. Griffin Room**

**Tuesday, March 28, 2017 - 6:30 PM**

**MINUTES**

**Members Present:** Mr. Jim Atkinson, Ms. Linda Cebula, Mr. Joe McParland, Mr. Alan Peterson, Ms. Mary Maslowski, alternate, and Mr. Peter de Bakker joined the meeting at 7:25 PM.

**Members absent:** Mr. Larry Brophy, Mr. Dave Harris

**Staff Present:** Aly Sabatino, Town Planner.

Prepared from an audio/video recording and written notes.

**Call to Order -** The acting Chair James Atkinson opened the meeting at 6:33 PM.

Mr. Atkinson announced:

*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.*

1. **Public Hearing**

First three applications taken together as requested by the Chair and agreed to by the Board and all others present.

**a. PB2017-07 Davenport Realty Trust,** owners, c/o Paul R. Tardif, Esq., seeks approval of a Use Special Permit 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 56 Bog Lane Map 56, Parcel K2-1 in the R-L District.

Acting and voting on the matter were members Mr. McParland, Mr. Atkinson, Ms. Cebula, Mr. Peterson and Ms. Maslowski (alternate).

The application was presented by Attorney Paul Tardif. Mr. Christian Davenport, Vice President of Davenport Companies was introduced. Atty. Tardif noted that the proposal is to construct three (3) identical duplexes on the three (3) parcels in the subdivision commonly known as Bog Lane. He stated that an electrical easement affects each of the lots in varying degrees. The homes will initially be built with 2 bedrooms but the design allows for four bedrooms. The duplexes have been designed with a common shed roof connector, and the special permit regulations and requirements have been met and each application meets the definition for a two-family dwelling. The dwellings will be offered as rental units.

Neighboring abutters submitted a group letter of opposition to the development of two family homes rather than single family homes. Ms. E. West of 48 Bog Lane spoke for the group. Several other residents also spoke in opposition of the project including Dr. J. Narbone in regard to the maintenance of the road identifying her husband as the sole care taker of the way. Atty. Tardif expressed that as they recently purchased the properties they would be willing to work with the neighbors regarding the conditions and maintenance of the private way. Environmental Protection Act (EPA) noted as having approved the project.

After public deliberation and hearing from all parties having an interest in the case, the Board members reviewed the criteria for granting a special permit as set forth in M.G.L. 40A, §9 and the Code of the Town Harwich §325-13.A, -51 and -51.N. Following a duly made and seconded motion the Board unanimously (5-0-0) voted to close the hearing and adopted the following findings:

1. Each lot area contains the minimum requirement of 40,000 SF of upland.
2. Each dwelling unit’s floor area is greater than the 800 SF minimum requirements.
3. A common roof connects the dwelling units.
4. The parcels provide sufficient access for two parking spaces.
5. The use as developed will not adversely affect the neighborhood.
6. The specific site is an appropriate location for such a use, structure or condition.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.

Mr. McParland moved and Ms. Cebula seconded a motion to approve the Use Special Permits for two-family dwellings on the three (3) lots 56 Bog Lane, 235 South Westgate Road and 225 South Westgate Road for Davenport Realty Trust 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. There shall be a minimum of two off street parking spaces per each unit.
    2. The height of the buildings shall not exceed the maximum permitted height in the R-L zoning district of 2 ½ stories pursuant to Table 3 Height and Bulk Regulations of the Town Code.
    3. All conditions imposed by the Health Department shall be complied with.

**The motion was approved unanimously (5-0-0).**

All votes: J. Atkinson, McParland, Peterson, Cebula, Maslowski (Alternative).

**b. PB2017-08 Davenport Realty Trust.** The property is located at 235 South Westgate Road Map 56, Parcel K2-2 in the R-L District.

See case and vote above.

**c. PB2017-09 Davenport Realty Trust.** The property is located at 225 South Westgate Road Map 56, Parcel K2-3 in the R-L District.

See case and vote above.

Documents: Staff Report – A. Sabatino

**d.** **PB2017-10 Tonka Girl LLC,** owner, c/o Daniel Ojala, P.E., Representative seeks approval of a Site Plan Review Special Permit pursuant to the Code of the Town of Harwich §325-51 and 325-55 as set forth in MGL c. 40A §9. The property is located at 15 Denwich Road, Map 55 Parcel G8-4 in the I-L zoning district.

Acting and voting on the matter were members Mr. McParland, Mr. Atkinson, Ms. Cebula, Mr. de Bakker, Mr. Peterson and Ms. Maslowski (alternate).

Dan Ojala, P.E. presented the application and plans for the proposal noting that a company representative is present to answer questions if necessary.

Mr. Jay Coburn, Executive Director of Community Development Partnership, owner/manager of Thankful Chases Pathway, an affordable housing project and direct abutter submitted a written letter of concern and summarized the concerns of project. Mr. Ojala and the Board made due consideration of concerns pertaining to the hearing at hand. Mr. Rick Hamlin, an abutter to the south, spoke in support of the project.

**Motion made by Ms. Cebula and seconded by Mr. Peterson to close the Public Hearing.**

Following a motion by Ms. Cebula, seconded by Mr. Peterson, the Board voted (5-1-0) to approve the following findings of fact:

1. There will be no nuisance or serious hazard to vehicles or pedestrians.
2. The plan provides for efficient and safe disposal of surface water.
3. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
4. The request waivers will not substantially derogate from the purpose and intent of this bylaw and that such waiver may be granted without substantial detriment to the neighborhood or overall public good.

Following motions by Ms. Cebula, seconded by Mr. Peterson, the Board voted in the following manner approving the following waivers:

1. 400 Appendix 3, Figure 10 - Parking Details: Eliminate wheel stops as the parking area has been designed away from the structure and snow removal will be less burdensome. Vote: 6-0-0, carried.
2. 325-42.H - Design Requirements: [Southern] Driveway width of 105’ where 50’ is customary. This request is made due to the nature of the business, the length of trailered equipment and the turning movements required. The site was specifically developed utilizing the cul-de-sac as a unique curb cut and relief is respectfully requested. Vote: 5-1-0, carried.
3. 325-40 - Loading Requirements: None delineated. A formal loading area is not required for the applicant’s use. Trucks enter the building through the doors in the south end of the building. Vote: 6-0-0, carried.

**On a motion by Ms. Cebula, seconded by Mr. Peterson, and duly amended by same, the Board voted (5-1-0) based on the aforementioned Findings of Facts and the fact the applications meets the requirements and criteria for approval of the Code of the Town of Harwich to grant the site plan special permit with the aforementioned waivers for the proposed development of the property at 15 Denwich Road and the plan dated February 14, 2017 and last revised March 20, 2017 and impose the following condition(s):**

**Conditions of Approval:**

* + - 1. **Submission of a letter sized plan entitled Exhibit A showing the access easement area. This exhibit must be recorded with the Planning Board’s decision.**
      2. **Relocate the 6 company spaces shown on the southeast corner of the property to an alternate location away from the equipment storage area as required by §325-42 F.**
      3. **Reduce the light fixture lumens or change the location of the light fixtures to insure that all light trespass from the site is eliminated pursuant to §325-130.**
      4. **Denwich Road (50’ wide private) is part of an approved subdivision and the proposed road has not been completed. Before the applicant can apply for a building permit, the road must be constructed so that adequate access can be demonstrated to the Building Department.**
      5. **Lighting between 12 am and 6 am will be low level security lighting only (0.5 FC average Max).**
      6. **All signage must conform to Article VII - Sign Regulations.**
      7. **The special permit decision shall be recorded at the Registry of Deeds.**
      8. **Any changes to the site plan shall be subject to further Planning Board review.**
      9. **A revised plan shall be submitted to the Planning Department representing the re-location of a parking light to the company vehicle area, change in fence height in the NW corner of the property will now be 8’ and additional landscape screening.**

Vote: 5-0-0 Atkinson, McParland, Peterson, Cebula, Maslowski (Alternate)

Chairman Atkinson asked the applicants to work with Mr. Colburn to resolve any

neighborly issues.

Ms. Sabatino asked that applicants for a revised site plan.

Mr. Dick Hamlin spoke in support of the project.

1. **New Business**
2. PB2015-16 Extension of Special Permit- Alternate Access Hillcrest Drive

Ms. Sabatino read a letter from Ryan Edwards into the record. Applicant explained reason for extension request.

Discussion regarding request for driveway and need for additional time. Garage needs Building permit from Building Commissioner.

**Motion made by Joe McParland and seconded by Linda Cebula to approve the Extension of Special Permit. The Planning Board voted (6-0-0) to allow the request of the new owner, Ryan Edwards, to extend the expiration of Special Permit originally granted by the Planning Board on June 23, 2015 pursuant to the applicable provision of MGL c.40A until June 23, 2018.**

**Mr. McParland motioned and Mr. de Bakker seconded to extend the Use Special Permit [expiration] until June 23, 2018.**

**Vote: Atkinson, de Bakker, McParland, Peterson, Cebula, Maslowski, alternate. Vote: 6-0-0.**

Documents: Memo to Planning Board from A. Sabatino Dated 3-22-17

Copy of letter to Planning Board from Ryan Edwards Dated 3-6-17

Copy of letter to Commonwealth of Massachusetts Re: PB2015-16 from Chairman James Atkinson

1. Open Space and Recreation Plan - Review and Send a Letter of Approval

Aly Sabatino summarized a plan which makes the Town eligible for grants, Action Plan, Goals and Objectives.

Chairman Atkinson recommended that in the future Plan be more specific including assignment of responsibility.

Motion made by Mr. de Bakker and Seconded by Mr. Peterson to endorse Opens Space Plan letter to Massachusetts Executive Office of Energy and Environmental Affairs Dated March \_\_\_, 2017.

Documents: Copy of Planning Board letter to Massachusetts Executive Office of Energy and Environmental Affairs, March. 2017 from Vice Chair, James Atkinson

1. Marijuana Moratorium- Preliminary Discussion

Discussion of proposed moratorium. Public Hearing requested before Town meeting. April 13, 2017 discussion at full Public Meeting. Chairman Atkinson asked Ms. Sabatino to check with Town Administrator and Town Counsel regarding compliance with State Legislature. Ms. Sabatino stated she had received a letter from Orleans requesting temporary moratorium.

Discussion regarding newspaper articles on the subject.

1. Presentation from the Wastewater Implantation Committee - Peter de Bakker, Chair

Mr. de Bakker said he was “putting on another hat” as Chairman of the Wastewater Commission. Abbreviated highlights of Mr. de Bakker’s presentation:

* Overview of Harwich’s approved Comprehensive Wastewater Management Plan (CWMP)
* Discussion of brochures being circulated through Town
* Initial Phase Program
* Land use Development
* Watersheds.
* Use of Phosphorus and Nitrogen
* Algae blooms in Harwich waters
* Mass DEP eel grass mapping
* Protection of full water cycle
* Nitrogen source: Wastewater (Title 5 Septic Systems); Fertilizers and runoff water
* Nitrogen entering groundwater
* Existing conditions of drinking water supply
* Impaired fresh water ponds in Harwich; Components of recommend program
* Eight Phases over 40 years
* Portions of Phase I done
* Use of Wastewater Treatment Plants
* Potential Community Partnership Option (Dennis, Harwich and Yarmouth)
* Summary “Doing nothing – not an option”

**Adjourn**

The meeting stopped due to unforeseen medical emergency at 9:02 PM.

No further scheduled business took place:

1. Advisory Opinion for Board of Appeals March 29, 2017 cases
2. Minutes: February 14, 2017 and February 23, 2017

1. **Old Business**
   1. ADA non-compliant sidewalk research
2. **Briefings and Reports by Board Members**

Minutes Respectfully Submitted, by Marie Hickey with partially transcribed notes by unnamed person and completed after viewing entire Blue Ray disc of meeting to ensure accuracy as much as possible (exercise Due Diligence without re-inventing the wheel).

Adopted: