HARWICH PLANNING BOARD

HARWICH TOWN HALL

732 Main Street

Donn B. Griffin Room

Tuesday, November 14, 2017

6:30 PM

MINUTES

PRESENT: Chairman, Lawrence Brophy; Vice-Chairman, James Atkinson; Joseph McParland; Mary Maslowski.

Allan Peterson joined the meeting via remote participation for case PB2017-27. See below.

ABSENT: David Harris

ALSO PRESENT: Town Planner, Aly Sabatino; Board Secretary, Amy Banford

CALL TO ORDER - 6:34 PM by Chairman Lawrence Brophy with a quorum present.

Chairman Brophy announced the Recording & Taping Notification: As required by law, the Town may audio or video record the meeting. Any person intending to either audio or video record the open session is required to inform the Chair.

Larry Brophy announced that the Board will hear PB2017-29 first this evening.

**Public Meetings & Hearings**

**II. a. Waiver of Site Plan:**

**PB2017-29 Town of Harwich - Golf, as owner and applicant, c/o Chris Clark, Town Administrator (TA) and Charleen Greenhalgh, Asst. TA, as representatives** seeks approval of a Waiver of Site Plan Review for the relocation of an existing fuel tank, demolition of two existing golf cart barns and the construction of a new golf cart barn. The property is located at 183 Oak Street, Map 61, Parcel H1 and is more commonly known as Cranberry Valley Golf Course in the R R and W-R Zoning District. The application is pursuant to the Code of the Town Harwich §325-55.F. as set forth in M.G.L c. 40A §9.   
  
Christopher Clark, Town Administrator, and Charlene Greenhalgh, Assistant Town Administrator presenting. Chris Clark asked about only having 4 members present. Larry Brophy said that 4 constitutes a quorum for this type of business, but would require a unanimous vote of 4. Chris Clark asked for a postponement due to the size of the group.

**Motion made by Jim Atkinson to continue to 12/12. Mary Maslowski seconded the motion. Vote 3-0-1. Joseph McParland opposed. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski. Motion passed.**

**I.a. PB2017-25 David E. Bardsley, TR, Herring Realty Trust, as owner, Tim Brady, PE, PLS, as representative**, seeks approval of a Rescission Plan pursuant to M.G.L c. 41 §81W. The proposal seeks to rescind the recorded subdivision plan for Winslow C. Grullemans, Plan Book 250 Page 27 (being Lots #1 - 3, Parcel A and the way) in favor of a 2- lot Approval Not Required (ANR) division plan. The property is known as Saquatucket Drive, Map 15 in the R‑L Zoning District.

**II.b. Approval Not Required:**

**PB2017-26 David E. Bardsley, TR, Herring Realty Trust, as owner, Tim Brady, PE, PLS, as representative**, seeks endorsement of an two (2) lot Approval Not Required (ANR) division plan pursuant to the Code of the Town Harwich §400, Article II as set forth in M.G.L c. 41 §81P. The property is located on Map 15 in the R L Zoning District.Tim Brady from East Cape Engineering presenting, with Attorney Paul Revere present. Tim Brady explained that the original subdivision was created in 1970 and included a plan to create a culvert across the creek to provide access to the parcel, but the culvert was never created. He also explained that they have attempted to obtain approval for a bridge across the creek, but have been denied by the Conservation Commission. This current proposal (1)to rescind the 1970 subdivision and (2)to redraw the parcel lines by acquiring a portion of a neighbors land, has been designed to resolve the issues of access and frontage for the parcel making it a single buildable lot of almost 2 acres including the wetlands.

Jim Atkinson asked about the ownership of Lot 3 on the ANR plan. Attorney Paul Revere explained that the original subdivision was only comprised of Lots 1 and 2. “Lot 3” on the ANR plan was not part of the old subdivision plan. Lot 3 on the ANR currently belongs to Ms. Tanko and will be purchased by the applicant and annexed into the new parcel.

Joe McParland asked why they couldn’t build a bridge. Mr. Revere explained that this proposal is actually a settlement plan to resolve a lawsuit that the applicant has pending against the Town of Harwich for taking their land by not allowing a bridge across the creek to access the parcel.

Mary McCole, lives at 25 Colonial Way and asked what if any impact this would have on her property. There would be no impact.

Town Planner, Aly Sabatino, explained that if the Board decides to approve the first part of the proposal, which is to rescind the original subdivision, the applicant technically has 21 days to appeal the decision. This could pose a problem for their ability to vote to approve the second part of the proposal, the ANR division plan.

Jim Atkinson asked if the applicant could create two separate plans, one to rescind the original subdivision, and one for the ANR. He feels that would make things clearer. Mr. Revere stated that he drew the plans up this way at the suggestion of the Register of Deeds, Jack Meade, and he is concerned that Mr. Meade will not accept the two separate plans. Mr. Atkinson asked that he find out for sure and come back on 12/12 with the answer to that question and possibly two separate plans as he suggested. Mr. Revere and Mr. Brady agreed.

**Motion made by Joseph McParland to continue Waiver of Site Plan until 12/12. Seconded by Jim Atkinson. Vote 4-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski.**

**Motion made by Joseph McParland to allow the withdrawal of the ANR without prejudice. Mary Maslowski made an amendment to also waive all fees on re-application. Seconded by Jim Atkinson. Vote 4-0-0.**

**Allen Peterson joined the hearing by remote participation. Five members of the Board will be voting on the following case:**

**I.b. PB2017-27 John A. Halliday, as owner, c/o William D. Crowell, Esq., representative**, seeks approval of a Use Special Permit for an Accessory Apartment with waivers pursuant to the Code of the Town Harwich §325-51.H and Article V as set forth in M.G.L c. 40A §9. The proposal locates the (one) 1 bedroom apartment within the dwelling at the basement level. The property is located at 17 Long Pond Drive, Map 92, Parcel R2A-4, in the R‑L Zoning District. Attorney Crowell representing Mr. Halliday explained that the approval of the Special Permit for an Accessory Apartment would not result in any change in site coverage or building footprint as the entire apartment will be contained in the basement of Mr. Halliday’s existing dwelling. There would be one off-street parking spot.

Aly Sabatino stated that the Health department had required inspection of the existing leach pits and that has already been done. Therefore that should be removed from the conditions if the Board approves. She recommended approval of the request. She clarified that on Staff comments it states that the owner intends to occupy both units but that should be corrected to state one unit.

Jim Atkinson asked which level the apartment will be on. asked where the 1 off-street parking spot would be located. Attorney Crowell presented a drawing showing the location

Joe McParland asked why the applicant needs the additional apartment. Mr. Halliday explained that he intends to occupy one of the units with a family member occupying the Accessory Apartment.

**Motion made to grant the Special Permit made by Joseph McParland. Seconded by Jim Atkinson. Vote 5-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, and Allen Peterson.**

**Motion made to adopt the following Finding of Fact made by Joseph McParland.**

1. The parcel(s) is in the R-L.
2. The apartment unit is not greater than 900 SF (being 842± SF).
3. It is the owner’s intent to occupy both units.
4. Minimum requirements have been met for setbacks, area and bulk.
5. The driveway will provide sufficient off street parking which meets the minimum requirements.
6. The application as submitted does not adversely affect local traffic or create traffic hazards (§325-51.H.(2)).

**Motion seconded by James Atkinson. Vote 5-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, and Allen Peterson.**

**Motion to approve with conditions the Use Special Permit and waivers pursuant to §400-6 Waiver of rules and regulations made by Joseph McParland.**

1. The owner shall maintain occupancy in one of the units as required by Town Code.
2. At least one off-street parking space shall be provided for the accessory dwelling unit.
3. The Special Permit decision shall be recorded at the Registry of Deeds.
4. Any changes to the plan shall be subject to further Planning Board review.

**Motion seconded by Jim Atkinson. Vote 5-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, and Allen Peterson.**

1. **Public Meeting**

**New Business**

* 1. **Minutes for October 26, 2017 - Vote to approve**  
       
     **Motion made by Joseph McParland to adopt the 10/26/17 meeting minutes. Seconded by Mary Maslowski. Vote 3-1-0. James Atkinson abstained. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski. Motion carried.**
  2. **Draft 2018 Planning Board Schedule**  
     Jim asked why we distinguish between Public Hearing and Public Meeting dates. Aly Sabatino said it is more common to have a Public Meeting before every Public Hearing. Aly Sabatino will look into it. One concern is that the deadlines for different application types are different.

**Old Business**

1. **Port Village District Draft By-law**  
   Aly Sabatino has made changes to the language under Supplemental Regulations to add all of the changes discussed in the last meeting. She also added permitted use for Single Family, and Special Permit for Accessory Apartment.   
      
   **Motion to authorize Aly Sabatino to proceed with the process for the approval of the Port Village District by presenting it to the Board of the Selectman made by James Atkinson. Seconded by Joseph McParland. Vote 4-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski.**
2. **Sale of Recreational Marijuana Draft By-law** **and** **Marijuana Moratorium Draft By-law**  
   Aly Sabatino sent the draft By-Laws to outside council at Culpaman and Page to review. She recommends that the Board move to allow her to proceed with working with outside council towards sending the By-Laws to the Board of Selectmen.

**Motion to authorize Aly Sabatino to proceed with the process towards approval of the zoning amendments regarding the ban the sale of recreational marijuana and the continuation of the moratorium on recreational marijuana made by Jim Atkinson. Seconded by Joseph McParland. Vote 4-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski.**

1. **Discussion of Local Comprehensive Plan Sub-Committee**  
   James Atkinson explained the requirements to hold the meetings in Town Hall with notices posted 48 hours in advance. He recommended that the first meeting should be held in the week after Thanksgiving. The Sub-Committee will consist of two Board members plus the Town Planner.
2. **Briefings and Reports by Board Members**

**Joseph McParland:** Capital Outlay committee voted today on all of their capital outlay requests. Waste water is the biggest request. Chris Clark has been extremely helpful to the committee. Jim Atkinson asked if the list of things approved is available and asked for a copy of that before next meeting. Mr. McParland agreed. Mr. McParland is also on the East Harwich Fire committee. The Board of Selectman voted last night to approve the plan for the new East Harwich Fire Station.

**James Atkinson:** Community Preservation Committee has started going over the applications. They have 16 total applications. They had a meeting last Thursday and will have three more meetings before end of year. The next meetings are 11/30, 12/7 12/14. They hope to review all application and meet with all applicants by the end of this year. Then they will deliberate and make their decision in January. Joe asked how much money they have. Jim says about 2.6 million.

**Mary Maslowski:** Historic Commission expects the Recreation department to come before them soon to request the addition of a bathroom at Brooks Park. No other updates.

**Larry Brophy:** Saquatucket Harbor would like to bring a presentation before the Planning Board about the 100 seat restaurant they would like to establish. This will take place soon when the Board does not have as many items on the agenda.

**Comments from the Public:**

**Bob Nickerson** of 37 Bay View Rd was in attendance. He was interested in more information on the Village District Overlay project. He is doing a restoration of a historic house located at 617 Route 28. He will plan to attend the Public Hearing on the project and to speak further with Aly Sabatino.

1. **Adjourn**

Motion made by Joseph McParland to adjourn at 8:04 PM. Seconded by James Atkinson. Vote: 4-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, and Mary Maslowski.

Minutes transcribed and respectfully submitted by Amy Banford, Board Secretary.

Adopted: December 12, 2017