**Planning Board**

**MEETING MINUTES**

Tuesday, November 29, 2016

Griffin Room, Harwich Town Hall

Members Present: Larry Brophy, Chair, Joseph McParland, Jim Atkinson, Linda Cebula, Alan Peterson, Peter de Bakker, David Harris (Alt.) and Mary Maslowski (Alt.)

Others Present: Charleen Greenhalgh, Assistant Town Administrator, Aly Sabatino, Town Planner; Attorney Jamie Norcross; David Clark, P.E.; Attorney David Reid, Attorney Robert Scarano; Chris Bilek; Mr. and Mrs. Shelley; Attorney Paul Tardif.

The Chair opened the meeting at 6:30 PM.

**I.a.**

**PB2016-21 Sea Side Holdings LLC, Site Plan Review and Use Special Permits, 975 Route 28**

Applicants seek approval of a Site Plan Review, a Mixed-Use and Drinking Water Resource Protection District (W-R) Special Permits pursuant to the Code of the Town Harwich §325-55 and §325-51.M as set forth in MGL c. 40A §9. The proposal is to convert an existing structure to an office on first floor and apartment above, with parking area and other certain site improvements. The property is located at 975 Route 28, Map 34 Parcel Z5 and includes 971 Route 28, Map 34 Parcel Z1 in the C-H-1 and W-R Zoning Districts.

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

Dave Clark, P.E. presented the application and plans for the proposal. Ms. Sabatino read from the Staff Report noting the requested waiver, the Board of Health comments and Planning Staff comments. Atty. Jamie Norcross and the applicant, Mr. Chris Bilek were also present to address any comments or concerns.

The Board reviewed and referred to the submitted application, list of waivers, and supporting documents along with the following referenced plans:

1. Set of Plans for Sea Side Holdings LLC, 975 Route 28 by Clark Engineering, LLC and Outermost Land Survey, Inc. dated 09/20/2016 last revised 10/27/16, as follows:
   1. Sheet 1 of 2, Site Plan at 1”=20’.
   2. Sheet 2 of 2, Detail Plans.
2. Set of Building Plans, Addition/Renovation For Bilek Builders 975 Main Street, Harwich, MA, designed by Thomas A Moore Design CO, dated 11/2/2016, Scale 3/4” = 1’-0”, as follows:
3. Drawing A1, First Floor Plan.
4. Drawing A2, Second Floor Plan.
5. Drawing A3, Basement Floor Plan.
6. Drawing A4, Front Elevation.
7. Drawing A5, Rear Elevation.
8. Drawing A6, Right Side Elevation.
9. Drawing A7, Left Side Elevation.
10. Hydrogeologic Impact Statement dated October 7, 2016 and revised October 31, 2016 by Clark Engineering, LLC.
11. Lithonia Light Schedule, features and schedules
12. Drainage Calculations dated October 7, 2016 by Clark Engineering, LLC.

**Waiver(s) Requested**

1. § 400, Requirements for Applications and Plans:Specifically, the plan check list for vertical curve and sight distance chart.

After review of the Application, presented materials and Staff Notes, **Mr. McParland moved and Mr. Atkinson seconded the motion to adopt 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. Landscaping and lighting and other site plan details are adequate.
5. 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.
6. 66% of the floor area is dedicated to commercial use.

**The Board voted unanimously in favor. 7-0-0**

**Site Plan Review Special Permit**

**Following a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously (7-0-0)** that 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 the Board voted **to grant the site plan special permit and waivers requested for the proposed redevelopment of the property at 975 Route 28 and impose the following condition(s):**

**Conditions of Approval:**

* 1. The applicant shall submit details and dimensions of the proposed sign as outlined in Article VII Sign Regulations.
  2. The applicant shall revise the site plan to show the following prior to the issuance of a building permit:
  3. Show on the Zoning Compliance Table the correct number of parking spaces required.
  4. Identify with signage or markings that the two parking spaces located on the western side of the property are reserved for the residential use.
  5. Remove the notation “or 6 ft. high stockade fence”.
  6. Any changes to the site plan shall be subject to further Planning Board review.

**Use Special Permits**

Following a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously (7-0-0) to grant the following use special permits pursuant to §325-51.M and §325-09 & 400-17.B of the Harwich Zoning Code, respectively:

1. **Use Special Permit - Mixed Use**
2. **Use Special Permit - Drinking Water Resource Protection District**

**I.b.**

**PB2016-22 Robert W. and Patricia N. Shelley, 4 Lot Definitive Subdivision, 0 Main Street Extension**

The proposal sought approval of a four (4) lot definitive subdivision plan (three (3) buildable lots and one (1) non-building lot) with waivers pursuant to the Code of the Town of Harwich c.400, Article II as set forth in MGL c. 41 §88 K-GG. The property is known as 0 Main Street Extension (north of 62 Main Street Extension), Map 55 Parcel F1 in the R-L zoning district.

Attorney Robert Scarano presented the application with Robert and Patricia Shelley also present to take comments and questions during deliberations. This case was previously before the Planning Board and the Applicants withdrew without prejudice. Their new plan reflects concerns raised by Attorney David Reid for the Slineys, abutters to the project whose property will have open access during construction. The Board of Health has approved the plan noting that the drainage swales will be covered under the homeowners’ association.

Ms. Sabatino commented on the 7 requested waivers, suggesting an exception to #7. She reviewed the comments from the other Boards, Committees and Departments along with staff comments.

Mr. de Bakker asked about the Conservation Commission comments and who was in charge of monitoring the swale and whether it was insufficient. Attorney Scarano offered a proposal to address this with the homeowners’ association. He also noted that the intersection of Old Brewster Road and the Main Street intersection would be paved at the request of the abutters. There is a triangular piece of property being left for potential future development. Attorney Scarano also assured the Board that the “Stormwater BMP Operations & Maintenance Manual” [of the Homeowners Association] will include specific language addressing reporting requirements for drainage component failure as it affects Old Main Street. The Conservation Commission will enforce this.

The Board reviewed and referred to the submitted application, list of waivers, and supporting documents along with the set of plans prepared by Kevin E. Danahy, P.L.S. of Cyprus Design, Inc., Land Surveying and Civil Engineering, prepared for Robert and Patricia Shelley, as follows:

1. Definitive Subdivision Shelley Path, Cover Sheet, 62 Main Street Extension Harwich, Massachusetts, dated 04-05-16, last revised 09-07-16. Scale 1” =100’, Sheet No. 1 of 4.
2. Definitive Subdivision Shelley Path, Existing Conditions, 62 Main Street Extension Harwich, Massachusetts, dated 04-05-16, last revised 9-07-16. Scale 1” = 30’, Sheet 2 of 4.
3. Definitive Subdivision Shelley Path, Lotting Plan, 62 Main Street Extension Harwich, Massachusetts, dated 04-05-16, last revised 11-14-16. Scale 1”=30’, Sheet 3 of 4.
4. Definitive Subdivision Shelley Path, Site Plan, 62 Main Street Extension Harwich, Massachusetts, dated 04-05-16, last revised 9-07-16. Scale 1” = 30’, Sheet 4 of 4.

**Mr. McParland moved and Mr. J. Atkinson seconded the motion to approve the requested Waivers as follows:**

1. 400, Appendix 4B (L45): Elevation Datum is required to be taken from U.S.G.S. Datum. A waiver has been requested to allow Assumed Datum instead of U.S.G.S Datum.
2. §400, Appendix 2: A minimum roadway width of 20’ is required. A waiver has been requested to allow an 18’ wide crowned gravel roadway with crushed stone infiltration side trenches.
3. 400, Appendix 3 Figure No. 1: A minimum angle of street intersection at 70 degrees is required. A waiver has been requested to allow a minimum angle of street intersection at 56 degrees (existing ancient way interesting with Main Street).
4. 400, Appendix 4B (L52): An existing Ground Profile Right Side Line is required.
5. 400, Appendix 4B (L53): An existing Ground Profile Left Side Line is required.
6. 400, Appendix 4B (L62): A Stopping Sight Distance for all vertical curves and intersections is required.

1. §400- Appendix 4B (L63): Plan is required to show an approximate limit of clearing.

**The Board voted unanimously in favor. 6-0-0**

**Mr. McParland then moved and Mr. J. Atkinson seconded the motion to approve the following Findings of Fact:**

1. Said subdivision for single-family homes is a permitted use in the underlying district and does not adversely affect the neighborhood.
2. Lots 1, 2 and 3 demonstrate compliance of minimum dimensional requirements for frontage, area and shape.
3. Lot A is designated on the subdivision plan as “not a buildable lot”.
4. Proposed road construction satisfies all requirements pursuant to §400-12 through 14; §400 Appendix 1-The Rational Method of Drainage Design; and Appendix 2 Tables 1 through 4.

**The Board voted unanimously in favor. 6-0-0**

**Definitive Subdivision:**

**On a motion by Mr. McParland and seconded by Mr. Atkinson the Board unanimously (6‑0-0)** voted to **approve with conditions and waivers the application for the four (4) lot** Definitive Subdivision for Robert & Patricia Shelley as shown on the plan entitled “Definitive Subdivision Shelley Path”, Lotting Plan, 62 Main Street Extension Harwich, MA dated 04-05-16, last revised 11-14-2016. Scale 1” = 30’, Sheet No. 3 of 4, as prepared by Kevin E. Danahy, P.L.S., Cyprus Design Inc. for Robert and Patricia Shelley with the following conditions:

1. Board of Health conditions shall be inscribed on the Lotting Plan Sheet 3 of 4, or such document of conditions shall be referred to on the plan as specified in M.G.L c41, 81U.
2. “Stormwater BMP Operation/Maintenance Manual has proposed an aggressive maintenance schedule which should be strictly adhered to by the Homeowners Association.” shall be noted on the Lotting Plan, sheet 3 of 4.
3. A water main and hydrant per the Harwich Water Department must be shown and labeled on the Site Plan, sheet 4 of 4.
4. The entire proposed grade profile must be shown on the Site Plan, sheet 4 of 4.
5. The drainage calculations and storm water reports must be stamped by a Registered Professional Civil Engineer.
6. The road shall be known as Shelley Path.
7. A standard Planning Board Agreement and Covenant shall be fully executed and recorded at the Barnstable County Registry of Deeds.
8. The “Stormwater BMP Operations & Maintenance Manual” [of the Homeowners Association] shall include specific language addressing reporting requirements for drainage component failure as it affects Old Main Street and that such reporting of said failure shall require the Owner and or Homeowners Association to return to the Planning Board Agenda for the purpose of correcting said drainage / catch basin component to the approved plan.

In accordance with M.G.L Ch. 41 Sec. 81U, which requires a majority vote for approval of a definitive subdivision plan, six of the seven board members voted in favor as follows:

**All Votes:**

FAVOR: Atkinson, McParland, de Bakker, Brophy, Peterson, Cebula

OPPOSED: None

ABSTAIN: None

**II. a.** Informal Discussion: Bog Road, Map 56 - Atty. Paul Tardif for Davenport Companies

Attorney Tardif present the Board with a proposal that will be going before the Zoning Board of Appeals in January. The proposal is to build 3 duplex dwelling units on 2 lots within a 3 Lot ANR endorsed in 2006. The lots meet the required 40,000sf minimum but there is a 150’ electric easement, which runs through all three lots. Lots 1 & 2 have a building envelope along Bog Road; however Lot 3’s building area is at the rear of the property, behind the easement. Access is not an issue. The proposal is to eliminate a lot line between lots 1 & 2 which would require an ANR. The applicants need to go before the Zoning Board of Appeals for a Variance and are schedule for that on 12/28/16. The Planning Board had no issues with the proposal.

**II.b.** Endorsement of Definitive Plan and Covenant for PB2016-19 Coughlin and Allison

The 20-day appeal period has expired with no appeal taken. On a motion from Mr. McParland seconded by Mr. Peterson the Board voted unanimously to endorse the definitive subdivision and covenant.

**II.c.** Minutes: October 13, 2016 – On a motion from Mr. McParland seconded by Mr. Atkinson the Board voted 5-0-2 to approve the minutes as presented.

**II.d.** Minutes: October 25, 2016 - On a motion from Mr. McParland seconded by Mr. de Bakker the Board voted unanimously to approve the minutes as presented.

**II.e.** Review and Recommendations / Opinions: Board of Appeals Hearing - 11/30/2016: the Board had no comments regarding any of the applications.

**IV**. Briefings and Reports

Mr. McParland noted that the Capital Outlay Committee was almost done with work this year. Mr. de Bakker spoke briefly about the Wastewater Implementation Committee and said that they were working toward a new change and education.

Mr. Atkinson told the Board that the Community Preservation Committee is getting closer to making recommendations.

Mr. Brophy said that the Saquatucket Committee had not met.

**At 8:00 PM, Mr. McParland moved and Mr. Atkinson seconded the motion to** **Adjourn, so voted unanimously.**

Respectfully submitted by Shelagh Delaney

Adopted: January 24, 2017