HARWICH PLANNING BOARD

HARWICH TOWN HALL

732 Main Street

Donn B. Griffin Room

Tuesday, December 12, 2017

6:30 PM

MINUTES

PRESENT: Chairman, Lawrence Brophy; Vice-Chairman, James Atkinson; Joseph McParland; Mary Maslowski; Allan Peterson; David Harris; Jim Joyce.

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.

**PB2000-48 Wells (Watkins) Covenant Release - 6:34pm**

**Motion made by Joseph McParland to approve the Covenant Release. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**PB2013-06 Fratus (Raptor Road) Covenant Release – 6:36pm**

**Motion made by Joseph McParland to approve the Covenant Release. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**PB2017-25 David E. Bardsley, TR, Herring Realty Trust, as owner, Tim Brady, PE, PLS, as representative,** **6:38pm - Continued:** 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.

Aly Sabatino recommended approval of the rescission plan. Ms. Sabatino met with Attorney Revere and Mr. Bardsley to go over the requirements for the Register of Deeds. When they came before the Board last month, the Board members expressed some concern with the subdivision rescission being presented together with the ANR on the same plan.

Attorney Paul Revere, presenting for the applicant, explained that this rescission of the old subdivision is the first step towards resolving a long standing access issue with this property. Separating the case into two plans will resolve the issue of the 20 day appeal period between the plan rescission and the ANR approval. He researched the legal requirements for the rescission with the Registrar of Deeds. One requirement is that the original subdivision plan has been recorded. It has been recorded in Plan Book 250 page 27. Another requirement is a certified document showing that the Town Planning Board has approved the rescission. The third requirement is that the Registrar of Deeds record the vote in the Grantor index. The final requirement is a perimeter plan, which Mr. Revere submitted to the Board.

Mr. McParland asked if the original plan included a bridge. Mr. Revere replied that it was a right of way which could have been a bridge, but the bridge was never approved or built.

Mr. Atkinson thanked Attorney Revere for going to the Registrar and clearing this matter up.

**Motion made by Joseph McParland to close the Public Hearing. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**Motion made by Joseph McParland to approve the Rescission Plan. Seconded by James Atkinson. Amendment made by Charlene Greenhalgh to include the plan date of 12/12/2017 in the Motion. Joseph McParland and James Atkinson accepted the amendment. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**PB2017-30 Paul and Michelle Vasil 6:56pm -, as owners, c/o William D. Crowell, Esq.,** representative, seeks approval to amend a Use Special Permit with waivers for an Accessory Structure with Bedrooms pursuant to the Code of the Town Harwich 325-13, 325 Attachment 1, Paragraph I, Line 1.b. and §325-51 as set forth in M.G.L c. 40A §9. The proposal seeks to construct a detached, single story structure in lieu of the previously granted special permit for a 2-story structure under case PB2017-14 on May 23, 2017. The property is located at 19 School House Road, Map 14, Parcel T7A, in the R-M Zoning District.

Aly Sabatino sent the application to the Town departments. The Health department approved with the condition that one of the bedrooms in the main house be decommissioned by opening a wall into the hallway creating a den. The Health Director, Meggan Eldredge, recommended that this be added as a condition prior to occupancy of the accessory structure should the Board move to approve the Special Permit.

Attorney William Crowell, representing the applicant, says the applicant previously had approval for a two story structure which was never built. This is a revision of that plan as a one story structure. They ask that they amend the decision to approve the one story structure. He also mentioned that the structure is not an accessory apartment and does not have a kitchen.

Joseph McParland asked the applicant why he decided to change the structure. The applicant, Paul Vasil, explained that he originally used a plan from another project he did, but later decided that a two story structure would not be as aesthetically pleasing as a one-story structure.

Joseph McParland asked who owns the adjacent property. The adjacent property is a time share.

James Atkinson asked if it will be the same square footage. The applicant responded that it is less total square footage, but a larger footprint.

**Motion made at 7:05pm by Joseph McParland to close the Public Hearing. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

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

* 1. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
  2. The site is an appropriate location for such use.
  3. The accessory structure will not contain a kitchen and is not an accessory apartment as described in §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment”.
  4. The proposed parking area will provide sufficient off street parking which meets the minimum requirements of Town Code and as such, there will be no nuisance or serious hazard to vehicles or pedestrians.

**Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**Motion made by Joseph McParland to approve with the below Findings of Fact and the following conditions.**

1. The accessory structure is not an accessory apartment pursuant to §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment” and shall not contain a kitchen.
2. The owner must comply with the Health Department memo dated November 21st 2017, which states:

“The septic system was designed to support this structure with the condition that one of the bedrooms in the main house is to be decommissioned. A building permit to remove the wall of one of the bedrooms on the first floor and open it to the hallway to create a den is required. This work must be completed prior to occupancy of the accessory structure.”

1. The special permit decision shall be recorded at the Registry of Deeds.
2. Any changes to the plan shall be subject to further Planning Board review.

**Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**PB2017-28 Kristine Etz, as owner/applicant, 7:08pm -** seeks approval of a Use Special Permit for an Accessory Apartment 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 seeks to convert the finished space above the garage into a 1 bedroom apartment. The property is located at 19 Squantum Path, Map 78, Parcel J2-5, in the R‑R and W-R Zoning Districts.

Aly Sabatino recommended approval of the application with the addition of the following condition recommended by the Health department.

“The septic system was designed to support this fourth bedroom as part of the dwelling, however creating an accessory apartment changes the use from a single family home to a multi-family home and requires a change in the system. Title 5 requires two septic tanks in series or a two compartment tank when serving anything other than a single family home. A disposal system construction permit is required to make this change to the septic system.”

Jim Atkinson asked if the applicant was also seeking a Waiver. Ms. Sabatino explained that because this is not a commercial review, those type of conditions are normally waived for Residential Special Permits for accessory apartments.

Larry Brophy asked if this was existing or planned work. The applicant responded that the apartment was already there when she bought the house, and she just wanted to make sure that it was legal.

Rebecca Segorra, next door neighbor at 15 Squantum Path, brought up her concern that this would change the dynamic of the neighborhood. She would like to inquire if there could be conditions that this be only used for long term rental and not for weekly rentals. Larry Brophy explained that it would be difficult to make that type of restriction. Joseph mentioned that this property is on a one acre lot, so doesn’t seem to him to be a potential problem. Jim Atkinson said that this is consistent with the current zoning ordinances. Aly Sabatino explained that both units cannot be rented out at the same time and the owner of the property has to reside in the main residence full time.

**Motion made by Joseph McParland to close the Public Hearing. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

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

1. The parcel(s) is in the R-L.
2. The apartment unit is not greater than 900 SF (being 672± SF).
3. It is the owner’s intent to occupy one of the 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)).

**Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**Motion made by Joseph McParland to adopt the waiver to modify certain requirements of the Rules and Regulations not generally required for or pertinent to a residential application. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.**

**Motion made by Joseph McParland to approve the application with the above Findings and the following Conditions.**

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 owner must comply with the Health Department memo dated November 21, 2017, which states that:

“The septic system was designed to support this fourth bedroom as part of the dwelling, however creating an accessory apartment changes the use from a single family home to a multi-family home and requires a change in the system. Title 5 requires two septic tanks in series or a two compartment tank when serving anything other than a single family home.

A disposal system construction permit is required to make this change to the septic system.”

1. The Special Permit decision shall be recorded at the Registry of Deeds.
2. Any changes to the plan shall be subject to further Planning Board review.

**Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce**

**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** **7:23pm - Hearing Continued** 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.

Before discussion commenced, Board members Lawrence Brophy, Joseph McParland, David Harris stated that they are members of the Cranberry Valley Golf Club but they do not think this causes a conflict of interest.

Town Planner Aly Sabatino noted that the existing site where the proposed cart barn is to be located has been cleared and graded. This is in violation of section 325-18 O of the Harwich Town Code prior to Planning Board approval. She explained that the applicant plans to return with additional plans for parking. The applicant has submitted new plans since the last meeting detailing their plans for revegetation.

Town Administrator Chris Clark explained that they decided to handle this plan without a project manager and apologized for having done work already. One reason they began some of the work is that they want to avoid affecting the golf season. It will take 8-10 weeks to get the building once the order is placed, and they cannot place the order until they have a Building Permit. They have hired a landscape designer to create a plan for the screening of buildings. They would like to present his plan tonight.

Joseph McParland asked about the long term plan for the two existing buildings on the site. The 2 existing cart barns will be demolished. They will relocate the fuel tank and re-skin the existing building to make it look better.

Jim Joyce asked about the cart building being cleared more than they were supposed to and why that happened. Chris Clark explained that there was some confusion about the marker placed by Conservation. They thought they were clearing to the 100 foot marker but it turned out to have been the 50 foot marker. They will compensate for the extra clearing by revegetating the area.

Jim Atkinson expressed a concern with voting on incremental parts of the overall Golf Course plan rather than being presented with a more comprehensive complete plan. Chris explained the 8-10 week order process for the metal buildings and the timing of the approaching golf season, means that they need to get the building ordered very soon. During the time that they are waiting for the building, they can work on the smaller details of the rest of the plan such as the parking and landscaping. The golf course opens in April. The high golf season is June.

Jim Atkinson asked how quickly they could get the comprehensive plan if they do not grant the waiver today. Chris Clark said that they are already in a critically tight time frame for getting this done in a timely manner.

Larry Brophy expressed his concern that if they take down the old cart barns and then there is a problem with the new barn, there will be carts sitting outside.

Mary Maslowski asked how confident they are that the location of the cart barn is not going to change from the current proposal. Chris Clark says that he is very confident of the location and will make sure that they do not deviate from the proposed location should the Board approve.

Asked if they have they done soil boring tests to make sure there is not any problem with the proposed location of the foundation. Chris responded that they did not do boring tests but did do ground penetrating radar tests which confirmed that there is 10-15 feet of fill dirt under the proposed location.

Joseph McParland asked if the old basement is going to be used or filled. It will be filled.

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

1. The parcels are in the R‑R and W-R Zoning District.
2. The application does not substantially change the relationship of the structure to the site and to abutting properties.
3. There will be minimal change to building coverage, and site coverage.
4. There will be limited impact on parking and other existing uses of the site.

**Seconded by Allan Peterson. Vote: 6-0-1. Members voting: Lawrence Brophy, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce. James Atkinson abstained.**

**Motion made by Joseph McParland to approve Waiver of Site Plan for the construction of a new golf cart barn, the relocation of an existing fuel tank and the demolition of two existing golf cart barns based on the Findings of Fact above and that the proposal does not substantially change the relationship of the structure to the site or to abutting properties and structures and the application meets the necessary requirements and criteria for approval with the following condition:**

A full site plan application and plan shall be submitted to the Planning Board prior to the addition of an employee parking lot and/or reconfiguration of the existing parking lot.

Chris Clark asked that the conditioned be modified to state “within 60 days of tonight’s hearing”.

**Motion made by Mary Maslowski to so amend. Motion seconded by Allan Peterson. Vote: 6-1-0. Members voting: Lawrence Brophy, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce. James Atkinson opposed.**

Landscaping designer Michael Curadosi gave an informal presentation of his landscape plan for the areas around the parking lot, main building, and cart building, which will be finalized and submitted to the Board for approval at a later date.

**Informal Discussion** - Saquatucket Harbor, Matt Hart, **8:00 pm**

Matt Hart, Chairman of the Waterways Committee, presenting. Mr. Hart received a letter from someone interested in leasing part of the land at Saquatucket Harbor and building a 100 seat restaurant there. Mr. Hart has since been working with the Town Administrator and the Harbor Master’s office to get preliminary information about what types of requirements this would involve. Town Administrator Chris Clark explained that so far the concept has only been run by the Town of Harwich Community Development department heads such as Conservation and Health, but not yet by the Board of Selectmen. They have three potential concepts so far, a Snack Shack, a 60 seat restaurant, or a 100 seat restaurant. If this were approved, building would not take place until 2019.

Michael MacAskill, Chairman of the Board of Selectman spoke as a member of the public. He said that he believes this has not gone through the proper channels. He believes that because the idea of the Town leasing part of the Harbor to any private business has not been discussed by the Board of Selectman, it should not yet have been presented to the Planning Board. Jim Atkinson proposed that in light of the Chairman’s opposition to this discussion, it be postponed for now. The Board members agreed. Aly Sabatino added to the record that the Planning Board approved the Snack Shack when it came before them in the past, and secondly that Mr. McParland recused himself from this discussion.

**Minutes** for 11/14/2017 - **Motion made by Allan Peterson to approve the minutes from 11/14/2017. Seconded by Mary Maslowski. Mr. Harris abstained. Vote: 6-0-1. Members voting: Lawrence Brophy, Joseph McParland, Mary Maslowski, Allan Peterson, and Jim Joyce. David Harris abstained.**

**Briefings and Reports by Board Members**

**Joseph McParland:** Capital Planning committee, with the assistance of the Town Administrator, has completed their work and submitted a capital outlay plan to the Board for Town Meeting.

**James Atkinson:** Community Preservation Committee continues to meet weekly reviewing applications. They have reviewed all but two of the applications which will be reviewed this Thursday. There are meetings on 1/4 and 1/11. There were 16 total applications in excess of 3 million dollars. They have 2.7 million available. The Town Administrator has provided them with a spreadsheet. They will look at funds from previous approvals that have not been spent. The Comprehensive Planning sub-committee had their first meeting last week. The second meeting will probably be in early February.

Motion made by Joseph McParland to adjourn at 8:32 PM. Seconded by James Atkinson. Vote: 7-0-0. Members voting: Lawrence Brophy, James Atkinson, Joseph McParland, Mary Maslowski, Allan Peterson, David Harris, and Jim Joyce.

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

Adopted: January 23, 2018