

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street
DONN B. GRIFFIN ROOM
TUESDAY, FEBRUARY 27, 2018
6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman, Lawrence Brophy; Vice-Chairman, James Atkinson; Joseph McParland; Mary Maslowski; Jim Joyce; Allan Peterson
BOARD MEMBERS REMOTE PARTICIPATION: Allan Peterson (He arrived at 6:45pm)
BOARD MEMBERS ABSENT: David Harris
OTHERS PRESENT: Town Planner, Charleen Greenhalgh; David Michniewicz, Coastal Engineering; John O'Reilly, Engineer, J.M. O'Reilly & Associates;
CALL TO ORDER - 6:33 PM by Chairman, Lawrence Brophy with a quorum present.

Chairman, Lawrence 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. He also announced that Board member Mr. Peterson is participating via conference call for the first portion of the meeting.

PB2017-32, Joshua A. & Jason D. Michniewicz, 45 Main Street Ext., Site Plan Review - 6:34 pm

Applicants seek approval of an industrial building. The hearing is continued from 1/23/18 and 2/13/18.

David Michniewicz, Coastal Engineering, presented the changes made to the plan since the last meeting. The retaining wall has been extended, the parking in the southwest corner has been decreased, and the outdoor storage area for equipment has been added.

Ms. Greenhalgh had reviewed the revised plan; all concerns or questions have been addressed. All of the changes recommended by the Board have been made.

Mr. Joyce asked what type of equipment will be stored in the new storage area. Mr. Michniewicz responded that they will store smaller equipment such as trailers and Bobcats.

Motion made by Mr. McParland to close the Public Hearing at 6:36pm. Seconded by Mr. Atkinson. Vote by roll call: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve the following findings of fact:

1. Main Street provides for adequate access provided the concerns of the Police Department are complied with.
2. The access as proposed meets the minimum standards of the zoning code.
3. The plan provides for efficient and safe disposal of surface water.

4. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
5. There will be no nuisance or serious hazard to vehicles or pedestrians.

Seconded by Mr. Atkinson. Vote by roll call: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve with conditions case number PB2017-32, for Joshua A. & Jason D. Michniewicz, prospective owners under agreement, c/o David J. Michniewicz, P.E., representative for property located at 45 Main Street Extension for Site Plan Review Special Permit pursuant to the Code of the Town of Harwich §325-55 for the construction of a 6,000 SF, six-bay commercial structure and certain appurtenant site amenities for construction industry use on aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and following conditions:

1. The Special Permit shall comply with all Board of Health and Conservation Commission requirements and reviews.
2. Any changes to the site plan or changes of use (uses other than “Light industry and manufacturing”) shall be subject to further Planning Board review and approval.

Seconded by Mr. Atkinson. Vote by roll call: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

PB2018-02, Steven Allard & Lorraine Lensch – 165 Pleasant Bay Road, Use Special Permit for Accessory Apartment

Chairman Mr. Brophy opened the Public Hearing at 6:40 by reading the Legal into the record. The application, with waivers, seeks approval of a Use Special Permit for a detached Accessory Apartment pursuant to the Code of the Town Harwich §325-51.H and Article V Use Regulations. The proposal seeks to construct an 890±SF, 2 bedroom dwelling unit above a three-bay garage. The property is located at 165 Pleasant Bay Road, Map 113, Parcel P6, in the R-R & W-R Zoning Districts.

John O’Reilly, Engineer, representing the applicants, provided an overview of the project, including the construction and use of the three bay garage with a two bedroom apartment above, lines of sight of along Pleasant Bay Road are good, the topography and drainage is within the site, landscape improvements and other subject matter as it arose during testimony.

The property is a long and narrow lot between Walden Woods and Halls Path subdivisions, both open space developments. The owners are moving to Harwich and plan to make this their primary residence. The plan meets all requirements. An RV will be stored in the garage and a 2 bedroom apartment will be above. A Building Permit has already been issued for the main house, and work has begun. There will be 7 bedrooms total, 5 in the main house, and 2 in the accessory apartment. Title 5 septic requirements will be met. There are extensive lines of sight on Pleasant Bay Road. The apartment is intended for in-laws to eventually live in. They plan to fence the yard.

Board member Peterson arrived at this time. Ms. Greenhalgh read two letters from residents into the record. The letters were sent from Michael and Judith Lavanga, and from Brian and Nancy Scheld. She then spoke to the fact that the Town has no control over how residential properties are landscaped or cleared. She stated that all of the departments of the Town offices have reviewed the plans and have no concerns. The Police department did comment that line of sights should allow for maximum viewing of Pleasant Bay Road for those exiting the property and that no parking occur along Pleasant Bay Road. The Water department stated that the property will require meter pit.

Mr. McParland asked about the buffer area between the property and the Walden Woods subdivision. Ms. Greenhalgh explained that both Walden Woods and Halls Path subdivisions are Open Space developments with 20 foot buffer areas between them and this property.

Mr. O'Reilly spoke to the concerns from the neighbors. Mr. Allard sent a letter to the abutters to indicate that he would landscape and to describe the planned landscaping improvements. He does not believe that runoff will be an issue, in part because the Walden Woods area is higher than this property. There should be no impact due to erosion or washout.

Mr. Brophy then asked for public comments.

Mr. Arthur Handrahan, Walden Way, spoke on behalf of the abutters to the property and the manner in which the property was clear cut has caused emotional issues for many neighbors. He wanted to know if there were any requirements for projects in a water recharge area. He stated that the property is within ¼ mile of a Town drinking water well. He wanted to know why the lot was clear cut, and wanted the Board to impose conditions to account for water runoff, drainage, and re-vegetation. He also wanted to limit the allowed size of the garage doors, and to minimize further excavation. He also questioned why there was such a large apron planned around the accessory apartment. He is concerned that the Allard's are planning to store commercial building equipment there. He stated that the site is a mess and has been for the past 6 weeks. He would like to request that it be cleaned up. Mr. McParland asked how large the lots are in Walden Woods. They are ½ acre lots.

Mr. Julius Nephner, Halls Path resident representative, spoke to his concern that 5 garages are a lot for a residence and they do not want to see commercial trucks stored there. He also wanted to know why the apartment is being set so far from the main house.

Mr. O'Reilly spoke to some of their concerns. Mr. Allard is retired and has some health issues. While he does own a commercial property in Brewster, they do not plan to use this property in Harwich for commercial purposes. The apartment is initially for in-laws, then there is potential use for future caregivers as needed. The large apron around the accessory apartment is so the family RV can be pulled around the building and stored in the garage. He has no intention of putting a commercial shop in the garage.

Mr. David Anderson, Walden Woods resident, spoke to his concern that the property not be used for commercial purposes. Ms. Greenhalgh stated that the property is not zoned for commercial

use, however Home Occupation would be allowed. Only one commercial vehicle can be parked on a residential property.

Mr. Mark MacManus, Walden Woods spoke to his concern with the clearing of the lot. He stated that the lot was not “brush hogged”, rather it was clear cut with a lot of large trees being cut down. He also expressed disappointment that such a large project, affecting so many residents, was not required to go through the Planning Board prior to any work taking place.

Mr. Brophy spoke to the issue of Planning Board oversight on projects such as this one. The Board does not have the ability to restrict or review plans for construction of single family residential dwellings. This Hearing is to decide if the proposed accessory apartment meets all of the zoning requirements for a Use Special Permit.

The Board suggested that the abutters speak with John O’Reilly and/or the Allard’s for further questions.

Motion made by Mr. McParland to close the Public Hearing at 7:26pm. Seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve the waiver of the requirement of the hydrologic evaluation pursuant to §325-51.C (2) and pursuant to §400-6 waivers of any and all Commercial or Residential requirements of the bylaw that are not applicable to this petition.
Motion Seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve the following findings of fact:

1. The parcel(s) is in the R-R and W-R zoning districts.
2. The apartment unit is not greater than 900 SF (being 887± SF).
3. It is the owner’s intent to continue to reside and occupy the main dwelling.
4. Minimum requirements have been met for setbacks, area and bulk.
5. The driveway and garage 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 Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve the conditions of Use Special Permit and waivers for Steven Allard & Lorraine Lensch, owners, for a detached Accessory Apartment pursuant to the Code of the Town Harwich §§325-51.H, Article V Use Regulations. The proposal seeks to construct an 887± SF 2 bedroom dwelling unit above a three-bay garage. The property located at 165 Pleasant Bay Road, Map 113, Parcel P6. The approval is based on the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of the Town of Harwich with the above findings and the following condition(s):

1. The owner shall maintain occupancy in one of the units as required by Town Code.

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

Motion seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

PB2018-03, Karen Andreoli – 59 Neel Road, Use Special Permit Accessory Apartment -

Vice Chairman Mr. Atkinson opened the Public Hearing at 7:30pm by reading the Legal into the record. The application, with waivers, seeks approval of a Use Special Permit for a detached Accessory Apartment pursuant to the Code of the Town Harwich §325-51.H and Article V Use Regulations. The proposal seeks to construct an 870±SF, two-story, single bedroom dwelling unit via the demolition of an existing non-conforming garage. The property is located at 59 Neel Road, Map 16, Parcel N1-43, in the R-R Zoning District.

Mr. Stinson, Esq. presented a review of the necessary criteria for the granting of the Special Permit. This proposed accessory apartment will be 870 SF. The new building will comply with current setback requirements. The main house is approximately 4000 SF. The plan also shows the location of a future pool. They are prepared to expand the size of the existing leaching field if necessary.

Daniel Croteau, Moran Engineering, stated that the existing septic is for 6 bedrooms, so the new building will require a new septic tank and pump chamber, using the same leaching area as the main house.

Ms. Greenhalgh had reviewed the Site Plan. She recommended that an additional condition be added that an affidavit will be required indicating the property owner shall reside in one of the units. She noted that the receipts had been received indicating the abutters had been notified. The Conservation Department requires additional permits/review if any work takes place in AE flood zone. The Health Department stated that an existing floor plan of the main dwelling will be required to be reviewed to ensure that it does not exceed a total of 5 bedrooms. The septic system will need to be inspected to ensure it is functioning and adequate for the added bedroom in the accessory apartment. A disposal works construction permit will be required to install the required additional tanks. No other concerns. Staff recommends approval of the waivers requested.

Richard Waystack, resident abutter to the property, spoke to his request that the lighting of the property be on timers and down lit. Mr. Stinson stated earlier that the applicant agrees.

Motion made by Mr. McParland to close the Public Hearing at 7:39pm. Seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve waivers pursuant to §400-6 of any and all Commercial or Residential requirements of the bylaw that are not applicable to this petition.

Motion seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve the following findings of fact:

1. The parcel(s) is in the R-R zoning district(s).
2. The apartment unit is not greater than 900 SF (being 870± SF).
3. It is the owner's intent to continue to reside and occupy the main dwelling.
4. Minimum requirements have been met for setbacks, area and bulk.
5. The driveway and garage 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 Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to approve with conditions the Use Special Permit and waivers for Karen O. Andreoli, owner, for a detached Accessory Apartment pursuant to the Code of the Town Harwich §§325-51.H, Article V Use Regulations and Chapter 400. The proposal seeks to construct an 870± SF, two story, single bedroom dwelling unit via the demolition of an existing non-conforming garage. The property is located at 59 Neel Road, Map 16, Parcel N1-43, in the R-R Zoning District. The approval is based on the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of the Town of Harwich with the above findings and the following condition(s):

1. The owner shall maintain occupancy in one of the units as required by Town Code.
2. The applicant shall comply with all Board of Health and cons Commission requirements.
3. The Special Permit decision shall be recorded at the Barnstable County Registry of Deeds.
4. Any changes to the plan shall be subject to further Planning Board review.
5. An affidavit from the owner indicating that the property owner shall reside in one of the units shall be submitted to the Board prior to the issuance of a building permit.

Motion seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

PB2018-06 David E. Bardsley, TR, Herring Realty Trust – ANR

The application seeks endorsement of a 2 lot Approval Not Required (ANR) Plan pursuant to Harwich Town Code §400, Article II and MGL c.41 §81P. The property is located at Saquatucket Road and Colonial Way, Map 15, Parcels K6-1, K6-2, K6-3, and K6-5 in the R L Zoning District.

Attorney Paul Revere, representing the applicant, presented a follow-up to a prior approved plan rescission. The plan meets all zoning requirements. It is not to be a buildable lot, but for conveyance purposes only.

Ms. Greenhalgh reviewed the plan. This proposal meets the minimum criteria for endorsement of an ANR plan pursuant to §400-9 of the Harwich Town Code and pursuant to Massachusetts General Law Chapter 41 §81 K-GG.

1. Lot 2 and 3 are to be combined into one building lot with required frontage on a private way.

2. Lot 1 is to be combined with an abutting parcel with required frontage on a private way.
3. The private way provides for safe and adequate access.

Her recommendation is that the Board does vote to endorse the plan.

Mr. McParland asked for clarification of the lot lines. Ms. Greenhalgh provided clarification on the provided plan. Mr. Revere provided further clarification.

Motion made by Mr. McParland to adopt the finding that said plan does not constitute a subdivision as the way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, and shown on Land Court Plan 11526C provides safe and adequate access. **Motion seconded by Mr. Atkinson. Vote: 6-0-0.** Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to endorse the Approval Not Required (ANR) plan entitled “Plan of Land” prepared for Herring Realty Trust, by East Cape Engineering, Inc., dated January 23, 2018, scale 1”=40’. **Motion seconded by Mr. Atkinson. Vote: 6-0-0.** Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

PB2018-07 Eastward MBT, LLC, TR, owner, Susan Ladue, Eastward Companies

The application representative seeks approval of a 2 lot Approval Not Required (ANR) Plan pursuant to Harwich Town Code §400, Article II and MGL c.41 §81P. The property is located at 1522 & 1546 Orleans Road, Map 97, Parcels B2-1 and B2-2, respectively, in the R-R & W-R zoning districts.

Susan Ladue, Eastward companies, provided a review of the history of this property.

Ms. Greenhalgh had reviewed the plan and provided the following comments from the Planning department. This proposal meets the minimum criteria for endorsement of an ANR plan pursuant to §400-9 of the Harwich Town Code and pursuant to Massachusetts General Law Chapter 41 §81 K-GG. 2) Each of the lots contains adequate frontage on Route 39. 3) The correct lot number(s) are now provided on the plan. Ms. Greenhalgh also provided the following comments from the Board of Health. These two lots are within the Water Recharge area and are subject to a maximum of 110 gallons per day of septic flow per 10,000 square feet of land. Lot 1 is limited to a maximum of 6 bedrooms or 660 gallons per day. Lot 2 may be subject to Board of Health Regulations 1.2.11 if the total design flow exceeds 2,000 gallons per day or if this lot is subdivided in the future.

Motion made by Mr. McParland to adopt the finding that said plan does not constitute a subdivision as the way shown on a plan, a public way/town road, provides safe and adequate access. **Motion seconded by Mr. Atkinson. Vote: 6-0-0.** Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Motion made by Mr. McParland to endorse the Approval Not Required (ANR) plan entitled “Division Plan” prepared for Eastward Homes Business Trust, by Terry A. Warner, P.L.S., dated 1-26-2018, scale 1”=60’. **Motion seconded by Mr. Atkinson. Vote: 6-0-0.**

Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

PB2017-05 Dean Bascom (Eastward Companies, Representative), extension of fee waiver

The application seeks approval of an extension in the time-limit in which to file a Definitive Subdivision. The Planning Board approved a waiver of the filing fee for a new application provided it was filed within 1 year.

Susan Ladue, Eastward companies represented and spoke to the details of the request. The Definitive Plan was withdrawn last year. They are requesting a 6 month extension in which to be allowed to apply the \$4200 paid last year for the Preliminary Plan to the Definitive Plan which they will file within the next few weeks. The new Definitive plan will include several more lots, so they will be paying some additional fees at that time.

Ms. Greenhalgh spoke to the fact that town departments did a lot of work already in reviewing these plans. She was not sure exactly how much time and resources had been spent, but work has been done.

Mr. McParland spoke in his support of waiving the fees.

Mr. Joyce asked if there were going to be dramatic changes in what they were going to submit versus what they submitted a year ago. Ms. Ladue responded there will be 3 additional lots.

Motion made by Mr. McParland to extend a waiver of fee approval an additional six months. Motion seconded by Mr. Atkinson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

Briefings and Reports by Board Members

Mr. Atkinson: Community Preservation Committee has voted on the recommended applications that will be funded and sent to Town Meeting.

Adjournment

Motion made by Mr. McParland to adjourn at 8:14pm. Seconded by Mr. Peterson. Vote: 6-0-0. Members voting: Mr. Brophy, Mr. Atkinson, Mr. McParland, Ms. Maslowski, Mr. Peterson, and Mr. Joyce.

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

Adopted: March 27, 2018