

HARWICH PLANNING BOARD  
HARWICH TOWN HALL  
732 Main Street  
DONN B. GRIFFIN ROOM  
TUESDAY, APRIL 10, 2018  
6:30 PM  
MINUTES

**BOARD MEMBERS PRESENT:** Chairman, Lawrence Brophy; Jim Joyce; Joseph McParland; Mary Maslowski; Allan Peterson

**BOARD MEMBERS REMOTE PARTICIPATION:** David Harris

**BOARD MEMBERS ABSENT:** Vice-Chairman, James Atkinson

**OTHERS PRESENT:** Town Planner, Charleen Greenhalgh;

**CALL TO ORDER - 6:30 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. Ms. Greenhalgh announced that all votes would be taken by roll call.

**PB2017-33, Stephen D. & Nancy Morris, Accessory Apt Special Permit, 11 Oliver Snow Rd**  
Representatives: Dan Speakman; Nancy Morris

Chairman Mr. Brophy opened the Public Hearing at 6:30pm 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 a 725 SF, one bedroom dwelling unit and a single bay garage. The property is located at 11 Oliver Snow Road, Map 24, Parcel B3-A, in R-R Zoning District. This is being re-advertised and reheard do to the fact that abutters were not properly notified for the initial hearing.*

Mr. Speakman explained that there were back before the Board for a new hearing because abutters were not notified of the first hearing, this has been done for this hearing. The request is for an accessory apartment in a detached structure. All requirements have been met. There was no input from the public. **Motion made by Mr. McParland to close the Public Hearing at 6:35pm.** Seconded by Mr. Peterson. Vote by roll call: 6-0-0. Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Mr. McParland to approve waivers and/or modifications** from Commercial and Residential requirements of the Rules and Regulations as the requirements for a submittal are not pertinent to a residential structure i.e. landscape plans, etc. **Motion seconded by Mr. Peterson.** Vote by roll call: 6-0-0. Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Mr. McParland to approve the following Findings of Fact:**

1. The parcel(s) is in the R-R zoning district.
2. The apartment unit is not greater than 900 SF (being 725± SF).
3. It is the owner's intent to continue to reside and occupy the main dwelling on the property.

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)).

**Seconded by Mr. Peterson.** Vote by roll call: 6-0-0. Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Mr. McParland to approve with conditions the Use Special Permit and waivers** pursuant to §400-6 Waiver of rules and regulations requested for the attached accessory apartment 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. The owner shall maintain occupancy in one of the units as required by Town Code.
2. The basement shall not be used or improved for habitable living space.
3. The approval shall be conditioned to the Board of Health requirement for a septic system permit to expand leaching and add another septic tank as proposed.
4. The Special Permit decision shall be recorded at the Registry of Deeds.
5. Any changes to the plan shall be subject to further Planning Board review.

**Seconded by Mr. Peterson.** Vote by roll call: 6-0-0. Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**PB2018-09, Town of Harwich, Fire Station 2, 149 Route 137, Site Plan Review**

Representatives: David McKinley, LA; Todd Costa, Architect; Nathan Ketchel, Civil Engineer; Norm Clarke, Fire Chief

Chairman Mr. Brophy opened the Public Hearing at 6:40pm by reading the legal into the record. *The application seeks approval of a Site Plan Review Special Permit with waivers and site improvements and a Use Special Permit for a structure greater than 7,500 SF for construction of a new Fire Station pursuant to the Code of the Town of Harwich §325-51 and -55. The property is located at 149 Route 137, Map 87, Parcel J1, in the C-H-2 Zoning District.*

Mr. McParland recused himself because he is a member of the East Harwich Fire Station committee.

Mr. McKinley gave an overview of the site plan. Mr. Costa provided a summary of the architectural plans. Mr. Ketchel went over the plans for the handling of storm water drainage. A new water line will be installed with a new hydrant. They will be meeting with the Board of Health to request to utilize the existing septic system until the new sewer system is installed. An additional pump system would be added to the existing system to accommodate the new building. It will be designed to tie into the sewer system at a later date. A lighting plan has been submitted.

Ms. Maslowski asked questions regarding the driveway and parking area. The access will be from Route 39. There will be a two-way travel to the east side of the building, next to the bank

property, for employee access to the rear of the building. There is adequate width and maneuvering area for fire apparatus. Mr. Harris asked if an accessory traffic light will be added. Mr. Costa explained that they already have control of the existing traffic light at the intersection of Routes 137 and 39. Mr. Brophy asked how they plan to handle the cleaning of fire-fighting equipment contaminated with carcinogens. Chief Clarke explained that they now have the ability to thoroughly clean equipment at the scene of a fire, but will also be adding a special washer and dryer to handle any remaining contaminants. Ms. Greenhalgh went over the comments provided by the Board of Health, Building, Engineering, and Planning departments.

There was no input from the public. **Motion made by Ms. Maslowski to close the Public Hearing at 7:00pm. Seconded by Mr. Peterson.** Vote by roll call: 5-0-0. Members voting: Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Ms. Maslowski to approve the following waivers** pursuant to §400-6, as requested base on the facts presented by the applicant:

1. Six copies of a hydrogeologic impact statement.
2. Detailed Parking Calculations Table on the Existing Conditions Plan.
3. Names and Addresses of owner(s) of record and property deed and plan references on all plans, except the Existing Conditions Plan, where this information is provided.
4. Names of all direct abutters on all plans except the Existing Conditions Plan, where names are provided; and for the deed and plan references for all direct abutters on all plans.
5. Graphic Scale on the Existing Conditions Plan.
6. Providing the total area in square feet for the parcel on the Site Layout Plan.
7. Requirement to provide a Loading Area pursuant to §325-40 of the Code.
8. Existing driveways within 100 feet of the site on the Existing Conditions Plan and the Site Layout Plan.
9. Stopping sight distances for all vertical curves on all plans.
10. Traffic circulation arrows.
11. WRPD requirements, complete lists of type and quantities of all chemicals, etc. to be stored, used or disposed of on site; description of how and where to be store, etc.

**Seconded by Mr. Peterson.** Vote by roll call: 5-0-0. Members voting: Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Ms. Maslowski to adopt the following finding of fact:**

1. The proposed facility is within the CH-2 and WR districts.
2. The site currently houses the existing Station 2 facility, including the main curb-cut and parking areas located off Route 137, which will be utilized during the construction of the New Station 2 facility.
3. Route 39 provides for adequate access for proposed new location of Fire Station 2.
4. The curb cut off Route 137 would no longer be utilized for Fire Department use.
5. The access as proposed meets the minimum standards of the zoning code.
6. The plan provides for efficient and safe disposal of surface water.
7. The use is consistent with the Zoning Code and will not adversely affect the neighborhood or overall public good.
8. With adequate and appropriate signage there will be no nuisance or serious hazard to vehicles or pedestrians.
9. The waivers requested do not substantially derogate from the purpose and intent of this bylaw.

10. The site is an appropriate location for such use, as the existing Fire Station 2 is already located on the site.

**Seconded by Mr. Peterson.** Vote by roll call: 5-0-0. Members voting: Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Ms. Maslowski to approve with conditions case number PB2018-09, Town of Harwich, a Site Plan Review Special Permit with waivers and site improvements and a Use Special Permit** for a structure greater than 7,500 SF for construction of a new Fire Station pursuant to the Code of the Town of Harwich §325-51 and -55. The property is located at 149 Route 137, Map 87, Parcel J1, in the C-H-2 Zoning District. The decision is based on the 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 requirements and reviews.
2. All signage must conform to the Zoning Code.
3. Any changes to lighting shall conform to the Zoning Code.
4. Any changes to the site plan shall be subject to further Planning Board review and approval.

**Seconded by Mr. Peterson.** Vote by roll call: 5-0-0. Members voting: Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**PB2018-11, Taylor Powell, dba Perks, Waiver of Site Plan, 545 Main Street RT,**

Representatives: Attorney Matthew Fitzsimmons

Chairman Mr. Brophy opened the Public Meeting at 7:07pm by reading the legal into the record. *The application seeks approval of a Waiver of Site Plan for exterior expansion of the Restaurant, Fast Food /take-out use. The property is located at 545 Route 28, Map 14, Parcel U8 in the C-V Zoning District. The application is pursuant to the Code of the Town Harwich §325-55.F.*

Atty Fitzsimmons spoke to the request for modification of the exterior of the building. There will be no modifications to the seating plan and no direct food service. The exterior seating is for seasonal “convenience” seating only. ABCC has approved the license.

Ms. Greenhalgh gave an overview of the parcel history.

- April 30, 2008: The Planning Board granted a waiver of site plan to allow for the conversion of a first floor residential unit to retail space in an existing mix-use building.
- May 15, 2008: The Zoning Board of Appeals granted a Special Permit to allow for the use of a coffee shop, classified as “Restaurant, Fast Food/Takeout.
- June 26, 2012: The Planning Board granted a waiver of site plan to expand the existing fast food/takeout use via expansion of exterior space for convenience seating in a recently created outdoor patio area pursuant to MGL c.40A §9 and the Code of the Town of Harwich, MA §325-55 F.
- Within the past couple of years, there has been an expansion of the exterior space (outdoor bar/beer garden area) since the last approved site plan from 2012.

She also spoke to the comments from the other Community Development departments. The Building department will require a Building permit for the bar area expansion. The Health Director, Meggan Eldredge had the following comments:

*I have reviewed the application for a special permit for exterior expansion of the restaurant, Fast Food/Take-out use.*

*Perks currently holds a seasonal Food Service License with various restrictions due to the limited size of the septic system. The conditions are as follows:*

- *Food Service: 33 seats*
- *Take out service only, no interior seats: weather dependent*
- *Open air bistro; convenience seating only-no table service*
- *Paper service only-no glassware, china or reusable utensils*
- *Establishment closed with water shut off from September 15-May 1*

*The restrictions are a culmination of compromises as a result of the conversion of a Retail shop to a food service establishment over the last 10 years. Over time, this property grew from a Tea Shop with limited food preparation into a restaurant with an outdoor bar, full liquor license and a full menu of various types of food.*

*The Board of Health allowed the outdoor seating-up to 33 exterior seats- in 2012 when the proposal for a seasonal beer and wine license was before them. An "offset seating plan" requested by the owner to allow for the outdoor seats instead of having any seats inside. This request was approved in conjunction with the other conditions.*

*The outdoor bar is not to be used for food service-food must be ordered inside the building and the patron is to pick it up from the counter and bring it outside.*

Ms. Greenhalgh pointed out that the site plan states 34 seats, while the Board of Health states 33 seats. Atty Fitzsimmons noted this discrepancy and will address it with the Board of Health.

Megan Dutcher, a member of the public residing at 831 Queen Anne Rd, asked if the applicant planned to remove the retail space at the front of the premises and use it for take-out space. Ms. Greenhalgh answered in the negative. Ms. Dutcher also asked if the owners will have to comply with fire and building regulations for restaurants and take-out. Ms. Greenhalgh answered positively.

Mr. McParland stated his opposition to granting the requested waiver. He argued for the need for a full Site Plan review. Atty Fitzsimmons spoke to the concerns raised over the last year regarding noise complaints and how these issues were addressed.

**Motion made by Ms. Maslowski to adopt the following finding of fact:**

1. The parcels are in the CV 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 other existing uses of the site.

**Motion seconded by Mr. Peterson.** Vote by roll call: 5-0-1 (Mr. McParland against). Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Motion made by Ms. Maslowski to Approve Case PB2018-11, for Taylor Powell, dba Perks,** as applicant, 545 Main Street RT, as owner, a Waiver of Site Plan, pursuant to §325-55.F. for

exterior expansion of the Restaurant, Fast Food /take-out use for property located at 545 Route 28, Map 14, Parcel U8 in the C-V Zoning District based on the findings of fact above and that the fact 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. **Motion seconded by Mr. Harris.** Vote by roll call: 5-0-1 (Mr. McParland against). Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

**Advisory Opinions** – Historic District & Historical Commission: 4/18/18 and Board of Appeals 4/25/18 - No comments from the Board members.

**Old Business – Marijuana Bylaw**

Ms. Greenhalgh was asked to give a presentation at the Board of Selectman meeting to provide clarification on the articles being proposed by the Planning Board. She provided the same PowerPoint presentation to the Planning Board. The Selectman voted unanimously to support all of the articles. The Finance committee voted to support the moratorium. Several department heads have been asked to provide comments for a position letter that will go the Selectmen.

**Briefings and Reports by Board Members:** No updates from the Board members.

**Adjournment:** Motion made by Mr. McParland to adjourn at 7:45pm. Seconded by Mr. Peterson. Vote by roll call: 6-0-0. Members voting: Mr. McParland, Mr. Brophy, Ms. Maslowski, Mr. Peterson, Mr. Joyce and via remote participation, Mr. Harris.

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

Adopted: June 26, 2018