

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street - SMALL HEARING ROOM
TUESDAY, MAY 29, 2018
6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman, Lawrence Brophy; Vice-Chairman, James Atkinson; Joseph McParland; Mary Maslowski; Allan Peterson; David Harris

BOARD MEMBERS ABSENT: Jim Joyce

OTHERS PRESENT: Town Planner, Charleen Greenhalgh; Susan Ladue, William Riley, Debe Schiavi, Julie Kavanagh, Shirley Ginsberg, Kristin & Jon Hemeon, Lee Ames, Michael McKeen, Damien Teixeira, Kat McKeen, Sarah Welch, John Eldredge, Glenn Coffin, Robert Fratus

CALL TO ORDER - 6:33 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.

Recording was not turned on until 6:37pm.

PB2018-13 Eastward Home Business Trust, Eastward MBT, LLC, Trustee, 8-Lot Definitive Subdivision, 1522 & 1546 Orleans Road
Representatives: Susan Ladue, William Riley

Chairman Brophy opened the Hearing at 6:33pm by reading the Legal into the record. The application seeks approval of an eight (8) lot Definitive Subdivision pursuant to M.G.L. c.41 §81K-GG, and §400 of the Code of Town of Harwich for property located at 1522 (formerly) & 1546 Orleans Road, Map 97, Parcel B2-1-R & B2-2-R, and within the DEP Zone II & Pleasant Bay Watershed and the R-R and the W-R overlay districts. This is a continuation of a hearing from May 22, 2018, no testimony was taken at that time.

Mrs. Ladue reviewed the plan. It is an 8.5 acre parcel with 433 feet of frontage on Orleans Rd with a proposed 8 lot grid subdivision. The lots will be a minimum of 40,000 square feet with 150 feet of frontage. The proposed cul-de-sac road is 900 feet in length. It is in the R-R zone, in a Zone 2 and Water Resource Protection district. The building setbacks are 25 feet in front and 20 feet on the sides and rear. They have the required sidewalk on the right side of the road going to the cul-de-sac from Orleans Rd. All lots meet the shape requirement. The Planning Board approved the preliminary plan on March 27, 2018. They have a 50 foot wide subdivision road. They are not requesting any waivers. The sight distance where the subdivision road meets Orleans Rd is adequate. The proposed road name is Bascom Hollow Rd. The Board of Health approved the definitive plan on May 14, 2018 with conditions, which requires that only 4 lots be built on until such time as town sewer is available. The drainage calculations are adequate. The groundwater impact report shows the nitrogen recharge concentration of 4.8 parts per million where the standard requirement is 10 parts per million.

Ms. Greenhalgh reviewed the staff report and Board of Health comments. The Town Engineer had raised several items in a memo dated April 26, 2018. Those items have been addressed by

the applicant on the current plan. Further comments include, that the shape factor requirements have been met and that Lot 6 falls under the definition of a panhandle lot. Police, Building, Conservation, and Fire had no concerns. Highway Department is concerned *with the 8% slope of the road. This is a pretty steep slope for a road approaching an intersection with a collector road like Rte. 39/Orleans Road. The Highway Department's ability to properly treat this road in the snow and ice season to ensure public safety will be difficult. Cape Cod winters and not what they use to be and the concern would be residents not being able to safely stop due to icy roads.* Health Board reviewed the application on May 14, 2018, it was approved, with conditions.

Ms. Greenhalgh read the following letter from the Board of Health dated May 22, 2018 into the record. In summary the Board of Health approved the plan with the condition that only 4 lots will be developed until such time as town sewer is available.

Ms. Greenhalgh spoke to the Planning departments comments. Any Board of Health conditions/requirement will need to be noted on the Definitive Plan prior to endorsement. At this time she has no concerns or additional comments. The plan is consistent with the Rules and Regulations. She recommended that the Board consider if the plan is approved, adding a condition that the 4 lots that they are not going to be building on initially be held in covenant until the sewer access is available. This would protect against those 4 lots later being released before they intend to build.

Mr. McParland asked if the applicants could comment on the 4 lots. Mr. Riley pointed out that the applicant proposed the 4 lots. Mr. Riley's concern with a covenant is that they don't know which 4 lots they will build on at this time. He feels there is sufficient protection with the recorded order from the Board of Health. Mr. McParland asked why they were not building on the lot at the end of the street. There is already a house there. It was pointed out that the lot with the house is not part of the subdivision.

Ms. Greenhalgh asked if they would have to tie the 4 lots into the shared septic system on lot 1 when the system was installed, or whether each lot could be tied in later as they build on them. Mr. Riley and Ms. Ladue explained the main sewer line will be constructed down the entire road so that it does not have to be done later when the sewer system is installed on Orleans Rd. This line will serve as the collector pipe for the septic system. The main sewer line could hook up to any of the lots in the subdivision. Mrs. Greenhalgh was comfortable with this and changed her recommendation regarding the covenant.

Mr. Atkinson asked if Bascom Hollow Rd will be turned over to the town at any point. Ms. Greenhalgh said that the town has not accepted a private road for many years, so it will remain a private road.

Mr. Harris asked for clarification on the location of the septic system line and was referred to the site plan.

Debe Schiavi (formerly Bascom), abutter to the property, gave the history of the property. Last year there was a plan showing 5 lots with a 50' buffer between it and all abutters. She would prefer the 50 foot buffer and would like reconsideration of that possibility. Mr. McParland asked for clarification of which abutter property line she was referring to. It is the northerly line.

Julie Kavanagh asked about the acreage. It is 8.5 acres (was 6.33 previously). She would like to understand how the deed was changed to arrive at 8.5. She would also like to see the 50 foot buffer on both sides. She also expressed concern with adding another side road off of Orleans Rd in that area as there are already quite a few. She asked if the septic would be underground. The septic system on Lot 1 would be underground, per Ms. Ladue.

Mr. Riley spoke to competing property interest in this property. There are some overlapping claims. Eastward resolved the issue by purchasing the property from the various owners and then having a registered land surveyor create a stamped plan. They originally proposed a cluster subdivision plan with the buffer but after further consideration of the area, Mr. Marsh preferred the grid plan.

Mr. McParland asked about the owner unknown to the south. Mr. Riley said they are researching the titles, but have found only one owner who owns a small portion.

Shirley Ginsberg, an abutter on Old Carriage Drive (which backs up to lot 7), asked if the owner unknown land will be used for storage. The Board members agreed that that property is not a subject of this application. However, Mr. Riley did state that that property is Residential and cannot be used to store commercial equipment. He also spoke to Eastward Company's plans to provide plantings for screening throughout the development.

Kristin & Jon Hemeon, abutters on Sadie's Way, spoke to their concern about the buffer and asked if the lots were going to be cleared all the way to the lot lines. Mr. Brophy responded that the Planning Board cannot dictate what trees are removed from the lots. Mr. Riley responded that these are full sized lots and they anticipate doing some significant plantings to provide screening. He referred to the Crocker Rise subdivision as an example.

Lee Ames, an abutter across Route 39, asked why they have to clear cut the lots rather than leaving some of the old growth trees. Ms. Ladue responded that they anticipate less tree removal than if this were to be a cluster subdivision and they will be landscaping.

Motion made by Mr. McParland to close the Public Hearing at 7:07pm. Seconded by Mr. Atkinson. Vote: 6-0-0 to close the hearing.

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

1. Said subdivision for single-family homes, or two-family by special permit, is a permitted use in the underlying RR and the Water Resources district.
2. Said subdivision does not adversely affect the neighborhood.
3. All lots demonstrate compliance with minimum dimensional requirements for frontage, area and shape.
4. Board of Health requirements will be met.
5. Proposed road construction satisfies all requirements, including the grade of the road, pursuant to §400-12 through 14; §400 Appendix 1-The Rational Method of Drainage Design; and Appendix 2 Tables 1 through 4.
6. Incorporated by reference is the Certificate of Conformance from the Board of Health dated May 22, 2018, which states in part that only four (4) lots can be developed until such time a municipal/town sewer is available to the subdivision.

Seconded by Mr. Atkinson. Vote: 6-0-0 to adopt the findings of fact.

Motion made by Mr. McParland to approve with conditions the application for an 8 Lot definitive subdivision for Eastward Home Business Trust, Eastward MBT, LLC, Trustee, c/o Eastward Companies, based on the foregoing findings and the fact that the application and plans meet the necessary requirements and criteria for approval pursuant to the Code of the Town of Harwich for the definitive subdivision plan entitled “Bascom Hollow Subdivision”, prepared for Eastward Homes Business Trust, prepared by Clark Engineering LLC and Terry A. Warner, P.L.S, Definitive Subdivision Plan, dated 04-10-2018, revised 05-09-18, scale 1” = 60’, Sheet 1. The following conditions are imposed and required to be submitted prior to endorsement of the plan and covenant:

1. Board of Health conditions shall be noted on the Definition Plan, Sheet 1.
2. The road shall be known as Bascom Hollow.
3. A standard Planning Board Agreement and Covenant shall be fully executed and recorded at the Barnstable County Registry of Deeds.

Seconded by Mr. Atkinson. Vote: 6-0-0 to approve the definitive subdivision as motioned.

PB2018-15 Michael McKeen, as owner, c/o Teixeira Construction – 7:11 PM

Representatives: Michael McKeen, Damien Teixeira

Chairman Brophy opened the Hearing at 7:11 pm by reading the legal notice 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 two (2) bedroom dwelling unit with two-bay garage. The property is located at 55 Parallel St., Map 40, Parcel S1-3 in the R-M Zoning District. This is a continuation of a hearing from May 22, 2018, no testimony was taken at that time.

Mr. Teixeira gave an overview of the application. It will be used as a mother-in-law apartment.

Mr. Harris noted that the dimensions on the plan are 31’ x 31’. Mr. Teixeira responded that he understood that the living area is what is counted. After construction, the living area will be 900 square feet.

Ms. Greenhalgh spoke to the comments from all of the departments. A Building permit will be required. The septic system was designed for a total of 7 bedrooms, 4 proposed and 3 future. The septic system was designed for a single family home, not for use by multi-family. Although the leaching capacity is sufficient, Title 5 requires that a two compartment septic tank, or two tanks in series be used when serving anything other than a single family home. The septic plan must be modified to reflect the use of a two compartment septic tank or two tanks in series in order to be used by two separate dwellings. If granted, an additional street number will be needed from the Engineering department.

Kat McKeen asked for clarification regarding the additional street number. Ms. Greenhalgh explained for E911 a separate street number will be assigned so they will have 2 street numbers on one parcel.

Sarah Welch, an abutter on Sisson Rd, spoke to her concern with how the apartment will sit on the property. Her property abuts the property along the back of the lots. Mr. Teixeira responded that the 2 houses will face each other.

Motion made by Mr. McParland to close the Public Hearing at 7:20pm. Seconded by Mr. Atkinson. Vote: 6-0-0 to close the hearing.

Motion made by Mr. McParland to approve the waivers pursuant to §400-6 of any and all Commercial or Residential requirements of the bylaw that are not applicable to this petition. **Seconded by Mr. Atkinson.** Vote: 6-0-0 to approve the waivers.

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

1. The parcel(s) is in the R-M zoning district.
2. The apartment unit is 900 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. Atkinson. Vote: 6-0-0 to approve the findings of fact.

Motion made by Mr. McParland to approve with conditions and waivers the Use Special Permit for PB2018-15 Michael McKeen, for a detached two (2) bedroom Accessory Apartment with a two-bay garage pursuant to the Code of the Town Harwich §325-51.H and Article V Use Regulations for property located at 55 Parallel St., Map 40, Parcel S1-3 in the R-M 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 Town of Harwich 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. The applicant shall comply with all Board of Health requirements.
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.

Seconded by Mr. Atkinson. Vote: 6-0-0 to approve the special permit with conditions.

PB2018-16 Glenn Coffin, Emergency Medial Teaching Services, Inc. Use Special Permit and Waiver of Site Plan, 706 Main Street

Representatives: John Eldredge, Glenn Coffin

Chairman Brophy opened the Hearing at 7:24pm by reading the Legal into the record. The application seeks approval of a Use Special Permit and a Waiver of Site Plan for a For Profit Educational use pursuant to the Code of the Town Harwich §325-51.H and Article V Use Regulations. The property location is at 706 Main St., Unit A, Map 41, Parcel B3 in the C-V Zoning District and commonly known as the Pilgrim Lodge. This is a continuation of a hearing from May 22, 2018, no testimony was taken at that time.

Mr. Coffin spoke to the application. They provide training for EMTs and Paramedics. They used to provide this training at Cape Cod Community College, but the College has decided to no longer provide this training.

Ms. Greenhalgh spoke to the Building and Health department's comments. From the Building Commissioner, a new Certificate of Occupancy may be required. The Board of Health will require a Title 5 inspection for change in use from retail to education.

For the purposes of the floor area, the difference between the former retail space and the proposed educational use (approximately 30 students) in terms of parking requirements are negligible. It is Ms. Greenhalgh's recommendation that the Building and Health Department comments be included as conditions. Any signage would have to be reviewed and approved by the Historic District and Historical Commission. The existing parking at the rear of the property and along Main Street provide adequate parking for the proposed use. In addition, although it is beyond the 300 foot requirement, the Town Hall Parking Lot would also be available if needed. The proposed use does not change the relationship of the structure to the site.

Mr. Atkinson spoke to his opinion that this is an excellent use of this facility and will provide revitalization of the village. He asked if the parking would be adequate. Mr. Coffin responded that the parking should be adequate. The Masons meet there monthly and have more than 30 members in attendance.

Mr. McParland asked if they own the building. No, the Masons own the building and they will be a tenant.

Motion made by Mr. McParland to close the Public Hearing at 7:30pm. Seconded by Mr. Atkinson. Vote: 6-0-0 to close the hearing.

Motion made by Mr. McParland to approve the findings of facts as follows:

1. The parcel(s) is in the C-V zoning district.
2. The first floor of the property has been used as a commercial space for many years and therefor the proposed for-profit educational use is in keeping with the neighborhood.
3. The parking provide at the rear of the property and the available street parking are adequate for the intended use.
4. The application as submitted does not adversely affect local traffic or create traffic hazards.

Seconded by Mr. Atkinson. Vote: 6-0-0 to approve the findings of fact.

Motion made by Mr. McParland to approve the Waiver of Site Plan for Site Plan for PB2018-16 Glenn Coffin, Emergency Medial Teaching Services, Inc., as applicant to allow for the For Profit Educational use at the property located at 706 Main St., Unit A, Map 41, Parcel B3 in the C-V Zoning District and commonly known as the Pilgrim Lodge, based on the above findings of fact. **Seconded by Mr. Harris.** Vote: 6-0-0 to approve the waiver of site plan.

Motion made by Mr. McParland approve with conditions and waivers the Use Special Permit for PB2018-16 Glenn Coffin, Emergency Medial Teaching Services, Inc., as applicant. The application seeks approval of a Use Special Permit and a Waiver of Site Plan for a For Profit Educational use pursuant to the Code of the Town Harwich §325-51 and Article V Use Regulations. The property location is at 706 Main St., Unit A, Map 41, Parcel B3 in the C-V Zoning District and commonly known as the Pilgrim Lodge. The approval is 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 the following conditions:

1. The applicant shall comply with all Board of Health requirements.

2. The applicant shall comply with all Building Department Requirements.
 3. The Special Permit decision shall be recorded at the Registry of Deeds.
- Seconded by Mr. Atkinson.** Vote: 6-0-0 to approve the use special permit with conditions.

PB2018-19 Robert Fratus, owner, 6 ANR, 155 Hawksnest Road and 3 Raptor Road

Representative: Robert Fratus

The application seeks endorsement of a 6 lot approval not required plan (ANR) pursuant to M.G.L. c. 41 §81 P and §400-8 & 9. The property is shown as 153 Hawksnest Road (aka Seth Whitefield), Map 95, Parcel B17-6; 155 Hawksnest Road (aka Seth Whitefield, Map 95, Parcel B16-1; 2 Raptor Road, Map 95, Parcel B16-3; 3 Raptor Road, Map 95, Parcel B16-4; 6 Raptor Road, Map 96, Parcel B16-5; and 10 Raptor Road, Map 96, Parcel B16-2. The parcels are within the R-R, W-R and Six Ponds Special District zoning districts.

Ms. Greenhalgh presented a letter from the Board of Health for informational purposes only.

Mr. McParland asked if Mr. Fratus had improved the road. Mr. Fratus explained the reconfiguration. The road has been widened to Round Cove. He would like to see the Town do work on Round Cove and Hawks Nest Pond for fire safety issues.

Mr. Atkinson asked for clarification of the road conditions. Mr. Fratus stated that the road had been widened and was a bit dirty but open and passable. Raptor Rd is a new road in good condition.

Mr. Atkinson asked if lot 3 conforms to zoning regulations. Ms. Greenhalgh confirmed that the Town Engineer has reviewed the plan and approved.

Mr. McParland asked if these lots will be developed. Mr. Fratus responded in the affirmative.

Motion made by Mr. McParland to adopt 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. **Seconded by Mr. Atkinson.** Vote: 6-0-0 to adopt.

Motion made by Mr. McParland to endorse the ANR plan entitled “Plan of Land in Harwich Massachusetts, Prepared for Robert D. Fratus, Jr.” prepared by Richard J. Hood, P.L.S, dated 03May18, Scale 1” = 50’. **Seconded by Mr. Atkinson.** Vote: 6-0-0 to endorse the plan.

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

The next meeting will be June 26, 2018 as there are no applications for June 12th.

Adjournment: Motion made by Mr. McParland to adjourn at 7:59 PM. Seconded by Mr. Atkinson, so voted unanimously

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

Adopted: August 14, 2018