

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

**BOARD MEMBERS PRESENT:** Vice-Chairman, James Atkinson; Jim Joyce; Joseph McParland; Mary Maslowski; David Harris

**BOARD MEMBERS ABSENT:** Allan Peterson

**OTHERS PRESENT:** Town Planner, Charleen Greenhalgh; Kieran Healy; Andrea Endres; Barbara Nickerson; Joe Young; Gary Scannell;

**CALL TO ORDER - 6:30 PM** by Vice-Chairman, Atkinson with a quorum present.

Vice-Chairman, Atkinson 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.

**PB2018-24 Sundae School Inc., Site Plan Review Special Permit, 606 Route 28**

Representative: Kiran Healy, P.L.S. BSC Group

The Vice-Chair opened the hearing at 6:31pm by reading the notice into the record. The applicant seeks approval of a Site Plan Review Special Permit, with waivers, pursuant to the Code of the Town Harwich §325-55 to add a new entrance off of Route 28, which will reduce the number of parking spaces by four. The property is located at 606 Route 28, Map 14, Parcel Z18-2 and is in the C-V, R-M and Village Commercial Overlay Zoning Districts.

Mr. Atkinson explained that there were only five members present, which would require a unanimous decision of the Board as this is a Special Permit. Mr. Healy discussed this with the owners of Sundae School, Inc. and they would like to move forward.

Mr. Healy explained that there is a desire for a second entrance as there are difficulties with the neighbor to the west who they currently share a drive entrance with. The entrance is on the same property as Sundae School and the neighboring property has an easement. The entrance would be fenced off restricting the vehicle access to the neighboring property only, which also has access off of Bank Street. Mr. Kieran then reviewed the waivers that are being requested:

1. Drainage Calculations including showing location of surface and subsurface draining; drainage facilities; impervious surfaces and drainage plan. *BSC Group is requesting a waiver for this item as no drainage structures are being added and only minor grading changes are being proposed.*
2. Submittal of an existing conditions plan. *A waiver is requested as the proposed site improvements are minimal and the existing conditions plan can still be seen on the proposed plan.*
3. Legend of all symbols. *Please see the attached legend.*
4. Topography requirement. *The proposed site grading occurs only at the proposed entrance to direct the stormwater to the existing catch basins on site.*
5. Dumpster location. *There is a dumpster adjacent to the north side of the building.*
6. Sewage disposal system. *A waiver is requested as there was not any proposed changes to the septic/sewage design for this project.*

7. Utilities. *All above ground utilities and visible utilities are marked on the plan. A waiver is requested for the inclusion of the underground utilities.*
8. Lighting details. *A waiver is requested for lighting details as no new lighting is proposed.*
9. Retaining wall. *A waiver is requested as there are no retaining walls on site. The proposed stone wall is decorative and does not act as a retaining wall.*
10. General location of trees and proposed landscaping. *The tree line will be cut back as necessary to install the proposed stone wall and entrance. The remainder of the site landscaping will remain.*
11. Building Plans. *A waiver is requested as there are no changes to the existing building.*

Mrs. Greenhalgh then reviewed the staff report. Fire: No concerns; Good Idea. Engineering: Needs MassDOT Curb Cut Permit. The entrance exceeds 50' width (max.) by 32' (maybe different with MassDOT). Highway Department: No concerns. Police Department: No concerns. Planning Comments: 1) At the property line the curb cut width is 46.4'. To allow for adequate radii the entrance does flair to 82' where it will meet the existing paved layout with Route 28. 2) The site went through review in 1996 and received a Use Special Permit for Restaurant/Fast Food in 2002. There have been little to no changes made to the site, except for perhaps plantings. 3) Per conversations with the applicants Engineer, MassDOT has reviewed the proposal and preliminarily has not issues with the new curb cut; however local review and approval is required before MassDOT can act formally. This should be made a condition of approval. 4) As the site is existing and little to no changes have been made since the original approvals, the requested waivers appear to be reasonable. 5) The reduction in the number of parking spaces still leave more than adequate parking for the existing ice cream shop use. 6) A recommended condition is that an as-built plan should be required in the event that the review and approval of MassDOT results in any changes to the proposed entrance. 7) The relocation of the signs may require additional review and approval of the Building Department. 8) The request before the Board appears to be appropriate.

Mr. McParland asked about the ownership of the property. It is owned by J.R. Fennel Realty Trust and the application has been signed off by the owner. He then asked about the rear of the property, which appears to be vacant. Mr. Healy explained that this portion of the property is zoned residential and is not in use.

Mr. Joyce asked if there will be landscaping around the proposed fence. Mr. Healy explained that this would be a temporary fence to see how the new configuration will work out. He explained that currently there is confusion with those wishing to go to the neighboring establishment and which way they should be going once entering the curb cut.

Mr. Harris asked if the fence would remain during the winter months. A decision has not yet been made. Mrs. Endres, owner of Sundae School, explained that they are still trying to work out the traffic pattern. The split-rail fence would be temporary to see how this works. Generally there is no snow removal at the site as this is a seasonal use.

Barbara Nickerson, an abutter on Bay View Road is concerned with this proposal. The new entrance would be only 75' from the existing entrance. There are difficulties with site distances in this area. It is difficult to exit Bay View Road with all the traffic. She also expressed concern that only those abutters within 300' of Sundae School were notified, this proposal will impact far more residents than those notified.

Joe Young, new owner of the property at 611 Main Street (corner of Bay View Road), asked if a traffic study had been completed. He is concerned that this will impact many. He questioned a need for a sidewalk and will crosswalks be installed. Mr. Atkinson expressed that these are not items before the Board, only the proposal before the Planning Board can be discussed.

Gary Scannell, an abutter to the east, stated that he has a wonderful relationship with Sundae School. He does not have a real issue. He is a member of the Traffic Safety Committee; however he is not representing the committee. He does have concerns with lack of sidewalks and crosswalks.

Mrs. Greenhalgh spoke to the crosswalks and sidewalks. Route 28 is a state road and therefore falls under MassDOT. A cross walk has to go from one sidewalk to another with proper curb cuts. It is true that there are existing crosswalks on Route 28 that do not meet this standard. Crosswalks and sidewalks must meet ADA standards.

Mr. Harris stated that this will not cause or create new traffic; he sees this alleviating some traffic issues. Mr. Healy stated that they have had informal discussions with MassDOT, which does prefer this location for the new curb cut directly across from the other road (Bay View Road).

Mr. Atkinson did ask the Board Members if anyone had issues with the proposal. Only Mr. Joyce had concerns. He understands the need for the second entrance, but also hears the concerns of the neighbors.

Mrs. Endres stated that the hope of the new driveway was to relieve traffic issues. MassDOT did want this across from the Bay View Road.

Ms. Nickerson stating again that she has difficulty getting out of her own driveway on Bay View Road due to the back up of vehicles waiting to turn onto Route 28. She asked what other alternatives the engineers have looked at.

Mr. Joyce would feel better if a traffic study were completed. Mr. Healy explained that a traffic study is generally done when an expansion is proposed. The state won't allow for the existing driveway to be widened. There is currently a bottleneck at the existing entrance. A traffic study would not provide additional answers. He stated that if there are 1000 vehicles now, there will still be 1000 vehicles with the new curb cut. Mr. Joyce would like to know what this change will result in relative to traffic impacts.

Mr. Harris did point out that people are used to the existing entrance; what will be done to let people know. Mr. Healy explained that this change would be done in the off-season and signage would be relocated to the new entrance.

Mr. Joyce explained that in his work there is always a risk assessment and process analysis. He wants to know what the engineers have done to accomplish this. Mr. Healy explained that BSC Group completed an assessment which resulted in the proposed improvements to this situation. Mr. Joyce would like to see their assessment. Mr. Atkinson stated that MassDOT has jurisdiction of where curb cuts would be located.

Mr. Healy stated that he is concerned that a traffic study will not give information that Mr. Joyce is looking for. Mr. Joyce is concerned with making a change without having the information.

What will the impact to the change be? Mr. Atkinson asked Mr. Joyce specifically what it is that he is looking for.

Ms. Maslowski suggested that the alternative would be three separate cuts. The State has the final say, but cannot move forward until the local approval is given. The State looks towards the Town approval.

Mr. McParland spoke to a continuance. Ms. Maslowski asked if the applicant could provide something in writing from MassDOT regarding the entrance and if this would satisfy Mr. Joyce. He indicated that it would. Mr. Healy can ask MassDOT for a letter.

Mr. Young expressed that his biggest concern is that pedestrians will be crossing at this new entrance. Ms. Nickerson also questioned pedestrian access.

Mrs. Greenhalgh pointed out that the proposed fence would still allow for pedestrian access. Mr. Healy stated that an opening for pedestrian access can be provided in the fence.

At 7:30 pm, on a motion from Mr. McParland, seconded by Ms. Maslowski, the Board voted unanimously to continue the hearing to August 14, 2018, (for additional information from MassDOT). Mrs. Greenhalgh noted that the hearing has not been closed, so additional discussion would be allow at the August 14<sup>th</sup> meeting.

**PB2018-28 William J. and Janet E. Jussila, 2 Lot ANR, 57 & 61 North Westgate Road**

Representatives: Dan Croteau and William Jussila

The applicants seek endorsement of a two (2) lot Approval Not Required plan entitled “Plan of Land in Harwich, MA” dated June 19, 2018 prepared by Michael S. Ladue, PLS, of Moran Engineering Associates, LLC, pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 57 and 61 North Westgate Road, Map 78, Parcels G2-2. The parcels are in the R-R & W-R zoning districts.

Mr. Croteau provided a history of the property. Mr. Jussila also provided a brief explanation of the configuration of the lots.

Mrs. Greenhalgh reviewed her staff report. Planning: 1) 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 North West Gate Road (Town Road). Engineering/Surveying: No Comments. Conservation: Entire area is in endangered species habitat and needs state approval for development/alteration to land. Lots may need conservation commission approval for development. No work is allowed within 50’ of the wetland buffer. No problem with subdividing land, but there are development issues. Health: Septic system must comply with all local and state regulations. No variances will be granted.

Mr. McParland made a motion, seconded by Mr. Harris, 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. The Board’s vote was unanimous to approve.

Mr. McParland made a motion, seconded by Mr. Harris, to endorse the ANR plan entitled “Plan of Land in Harwich, Mass., Prepared for William J. & Janet E. Jussila”, prepared by Moran Engineering Associates, LLC, dated 6/19/2018, Scale 1” = 50’. The Board’s vote was unanimous to approve.

**PB2018-29 Joseph V. O’Loughlin, Trs. and Alma C. O’Loughlin, 3 Lot ANR, 16 & 0 Squantum and 98 North Westgate**

The applicants seek endorsement of a three (3) lot Approval Not Required plan entitled “Approval Not Required Plan of Land in Harwich, MA” dated March 7, 2018 prepared by Terry A. Warner, PLS, pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 16 and 0 Squantum Path and 98 North Westgate Road, Map 78, Parcels G10, J2-6 and G11-3 respectively. The parcels are in the R-R & W-R zoning districts.

There was no one present to represent the case. No action was taken by the Board. Following the expiration of the 21-days in which the Board has to act, the plan will be constructively approved and can be certified by the Town Clerk.

**Board Elections:** Chair and Clerk/Vice Chair

Mr. Atkinson asked for nominations for Chair. Mr. McParland nominated Mr. Joyce, it was seconded by Ms. Maslowski. There were no other nomination. Mr. McParland moved to close the nominations, seconded by Ms. Maslowski, so voted unanimously. The Board then voted unanimously to approve Mr. Joyce as the Chair.

Mr. McParland asked if the Board would be voting on a “Vice-Chair” or a “Clerk”. It would be for Clerk; however historically the Board has called the position “Vice-Chair”. Mr. Atkinson asked for nominations for Vice-Chair. Mr. McParland nominated Mr. Atkinson, it was seconded by Ms. Maslowski. There were no other nomination. Ms. Maslowski moved to close the nominations, seconded by Mr. Joyce, so voted unanimously. The Board then voted unanimously to approve Mr. Atkinson as the Vice-Chair.

Mr. McParland departed the meeting at 7:45 pm.

**Minutes – May 22, 2018:** These were table to the next meeting.

**Advisory Opinions** - Board of Appeals July 25, 2018: There were no questions or concerns.

**Briefings and Reports by Board Members:** No updates from the Board members; however there was a brief discussion about the need for more members, for example there is a need to hold a special meeting on July 31<sup>st</sup> due to quorum issues on July 24<sup>th</sup>. If language is provide to the Channel 18 Director, she will put something on the website. The Chamber would also be happy to include something in its monthly publication to its members.

**Adjournment:** The meeting adjourned at 7:52pm.

Respectfully submitted Charleen Greenhalgh, Town Planner

Adopted: August 14, 2018