**HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS**

**Wednesday, October 28, 2020 at 7:00 p.m.**

**VIA REMOTE ACCESS**

**MINUTES**

The Harwich Zoning Board of Appeals held a public hearing **via remote access** as noted below to hear the following cases.

**This meeting was by REMOTE PARTICIPATION ONLY. NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WAS ALLOWED.** Call in instructions were posted on the meeting Agenda on the Board of Appeals web page.

Mr. Ryer read the following statement into the record.

Pursuant to Governor Baker’s March 12, 2020 order Suspending Certain Provisions of the Open Meeting Law, G.L.c30A Sec18 and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Harwich Board of Appeals on Wednesday, May 27, 2020 at 7pm will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of Harwich website at [www.harwich-ma.gov](http://www.harwich-ma.gov).

For this meeting, members of the public were able to watch the meeting in the following manner on Channel 18 or by watching the simulcast at:

https://harwich18.dyndns.org/cablecast/public/Live. aspx?ChannellD=1  
  
**The public could join this meeting from via computer, tablet or smartphone.**   
<https://global.gotomeeting.com/join/681780845>   
  
**Or by dialing in using via phone.**   
United States: [+1 (408) 650-3123](tel:+14086503123,,681780845)   
  
**Access Code:** 681-780-845

Members attending: David Ryer, James Hilliard, Al Donoghue, Jamie Armstrong and Brian Sullivan

**Case # 2020-38**

Greenskies Clean Energy, LLC applied for a Variance from the requirements of the Large Scale Solar 50’ setback requirement of §325-143A pursuant to the requirements of MGL Chapter 40A §10. The property is located at **100 Oak Street,** Map 50, Parcel C2 in the RM Zoning District.

Mr. Ryer noted that a written request was received by the Applicants requesting that they be allowed to withdraw without prejudice.

Mr. Ryer moved and Mr. Donoghue seconded the motion to allow the Applicant in Case #2020-38 to withdraw without prejudice with no refiling fee. The Board voted unanimously in favor.

5-0-0

**Case # 2020-39**

Christopher L. Harris, through his agent, Attorney William Crowell applied for a Special Permit to construct a deck on top of a porch on the south side of a pre-existing, non-conforming single family dwelling and also to convert the porch to year-round habitable space pursuant to the Code of the Town of Harwich §325-54 A(2)(b) pursuant to MGL Chapter 40A §6. The property is located at **40 Bank St.**, Map 14, Parcel Y8 in the RH-1 Zoning District.

Mr. Ryer read the case into the record.

Members voting: David Ryer, James Hilliard, Al Donoghue, Jamie Armstrong and Brian Sullivan.

Attorney Crowell introduced himself and the Applicants, Chris and Mindy Harris along with the builder, John Chapman. He restated relevant portions of the application adding that the property is south of Route 28 near Braddock Lane. There will be no change in the footprint but the house is pre-existing, non-conforming as to the southerly lot line and the project will be intensifying that non-conformity. He stated that through the reasoning of the Gale Case, the Board can grant a Special Permit if it finds that there is no new non-conformity and no substantial detriment to the entire neighborhood. He said that there will be no increase in noise, odor, traffic, congestion or the like and asked that the Board grant the requested Special Permit.

Mr. Donoghue asked about the size of the septic system and Attorney Crowell said that the project will not go over the septic capacity which is 1500 gallons for 3 bedrooms. The Health Department had offered commentary saying that they had no objection to the project.

Mr. Ryer said that he believed that the case met the requirements of the Bylaw and the Gale Case with a pre-existing non-conformity, no new non-conformity and no substantial detriment to the neighborhood. He did suggest a restriction on summer construction given the congestion of the area.

Chris Dio spoke as a builder working with the abutters to the south and asked for clarification on the proposed setback of 17.2’ He was curious if he might need to come before the Board in the near future because his project is similar.

Mr. Hilliard moved to close the public hearing with a 2nd by Mr. Sullivan. The Board voted unanimously in favor.

Mr. Ryer moved to grant the Special Permit to construct a deck on top of a porch on the south side of a pre-existing, non-conforming single family dwelling and also to convert the porch to year-round habitable space pursuant to the Code of the Town of Harwich §325-54 A(2)(b) and MGL Chapter 40A §6 for the property located at **40 Bank St.**, Map 14, Parcel Y8 in the RH-1 Zoning District according to the plans submitted, the Board having found that there will be an intensification of an existing non-conformity, no new non-conformity and no substantial detriment to the neighborhood. There are 2 conditions associated with the granting of this Special Permit: 1) **no demolition, exterior construction nor new landscaping shall occur between the dates of June 30th and Labor Day of any year, and 2) that a violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. ch 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.** The Board voted unanimously in favor. 5-0-0

Mr. Ryer authorized Shelagh Delaney to stamp the plans for this case.

Mr. Ryer suggested a sentence change in the submission of the draft minutes for September 30, 2020.

Mr. Ryer then moved to approve the minutes as adjusted from the September 30, 2020 meeting with a 2nd by Mr. Armstrong.

Ms. Delaney noted that the Board had forgotten to adjourn from the September 30, 2020 meeting.

Mr. Sullivan moved to adjourn the meetings from both the September 30, 2020 meeting and the October 28, 2020 meeting. Mr. Armstrong seconded the motion. The Board voted unanimously in favor. 5-0-0

Authorized Posting Officer: Shelagh Delaney, sdelaney@town.harwich.ma.us

Board of Appeals Recording Clerk