**HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS**

**Wednesday, NOVEMBER 17, 2021 at 7:00 p.m.**

**MINUTES**

The Harwich Zoning Board of Appeals held a public hearing **on Wednesday, November 17, 2021 at 7:00PM in the Small Hearing Room of Town Hall, 732 Main Street, Harwich, MA** as noted below to hear the following cases.

Members present and introducing themselves for the record:

David Ryer, Chair; Al Donoghue, Clerk; Jamie Armstrong, Member; Chris Murphy, Member; Brian Sullivan, Member; Tim Bailey, Alternate Member.

Mr. Ryer opened the meeting and asked the Clerk, Mr. Donoghue to read the following continued case into the record.

**Case # 2021-44 16 Quason Lane (CONTINUED from 10.27.21)**

Joseph G. and Kristen M. Schultz through their agent, Attorney William Crowell have applied for a Special Permit (or in the alternative, a Variance) to demolish and replace a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325- 54 and §325-Table 2 - Area Regulations as set forth in MGL Chapter 40A §6 and §10. The property is located at **16 Quason Lane,** Map 7, Parcel A29 in the RH-1 Zoning District.

Voting on this case: Al Donoghue, Jamie Armstrong, Chris Murphy, Brian Sullivan and Tim Bailey.

Mr. Donoghue read the case into the record.

Attorney Crowell introduced himself and his client, Joseph Schultz and gave details of the application referring to the specifics of the submitted documents. He noted that the project will intensify the site coverage but improve the eastern side setback. According to the bylaw, the project can proceed along the same line as the already non-conforming side line. Attorney Crowell added that the Gale Case allows for the intensification of a non-conformity with a finding of no new non-conformity and no substantial detriment to the entire neighborhood. The septic plan will be fully Title V compliant, there will be no increase in noise, odor, traffic, fumes, congestion or the like and no substantial detriment to the neighborhood. Attorney Crowell asked the Board to grant the requested Special Permit.

Mr. Ryer suggested that if the Board voted to grant the Special Permit that they place a condition on it restricting summer construction. The remaining members agreed.

Mr. Donoghue moved to close the public hearing with a second by Mr. Murphy. The Board voted unanimously in favor.

Mr. Donoghue then moved and Mr. Sullivan seconded the motion that the Board grant the Special Permit to demolish and replace a pre-existing, non-conforming single family dwelling pursuant to the Code of the Town of Harwich, §325- 54 and §325-Table 2 - Area Regulations as set forth in MGL Chapter 40A §6 for the property located at **16 Quason Lane** according to the plans submitted**,** the Board having found that the project will intensify one or more existing non-conformities, complies with the requirements of the Bylaw, Chapter 40A of the MGL, Deadrick, Gale and related cases, and will not subject the neighborhood to any substantial detriment. This Special Permit is subject to the following conditions:

1. There shall be no demolition, construction or new landscaping between June 30th and Labor Day of any year.
2. 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. c 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

**Case # 2021-45 44 Hiawatha Road (CONTINUED from 10.27.21)**

Richard Rocco, Successor Trustee of the Hiawatha Road Irrevocable Trust, through his agent, Attorney William Crowell, has applied for a Special Permit (or in the alternative, a Variance) to construct a screened porch, a front porch and to finish the basement of a pre-existing, non-conforming single-family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-Table 2 Area Regulations as set forth in MGL Chapter 40A §6 and §10. The property is located at **44 Hiawatha Road,** Map 6, Parcel B1-7 located in the RH-1 Zoning District.

Voting on this case: David Ryer, Al Donoghue, Jamie Armstrong, Chris Murphy and Brian Sullivan.

Mr. Donoghue read the case into the record and noted that the Board had reviewed a number of pieces of correspondence from neighbors (6 in support and 2 opposed)

Attorney Crowell introduced himself and his client, Richard Rocco and gave details of the application and noted that the project is primarily for an unheated, screened 3 season porch and to finish the basement into habitable space within the setback, both of which will intensify existing non-conformities but add no new non-conformity. He added that there will be no increase in noise, odor, traffic, fumes, congestion or the like and no substantial detriment to the neighborhood. Attorney Crowell asked the Board to grant the requested Special Permit. All construction vehicles will be parked on the subject property and not on the public roads.

With no comments from the public, Mr. Murphy moved to close the public hearing with a second by Mr. Armstrong. The Board voted unanimously in favor.

Mr. Donoghue then moved and Mr. Armstrong seconded the motion that the Board grant a Special Permit to construct a screened porch, a front porch and to finish the basement of a pre-existing, non-conforming single-family dwelling pursuant to the Code of the Town of Harwich, §325-Table 2 Area Regulations as set forth in MGL Chapter 40A §6 for the property located at **44 Hiawatha Road,** Map 6, Parcel B1-7 located in the RH-1 Zoning District according to the plans submitted, the Board having found that the project will intensify one or more existing non-conformities, complies with the requirements of the Bylaw, Chapter 40A of the MGL, Deadrick, Gale and related cases, and will not subject the neighborhood to any substantial detriment. This Special Permit is subject to the following conditions:

1. There shall be no demolition, construction or new landscaping between June 30th and Labor Day of any year.
2. 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. c 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

**Case # 2021-46**

Scott R. Jordan, through his agent, Attorney William Crowell has applied for a Special Permit (or in the alternative, a Variance) to demolish and replace a pre-existing, non-conforming single family dwelling as well as a detached 1-story wood frame building and shed. The application is pursuant to the Code of the Town of Harwich, §325- 54 and §325-Table 2 - Area Regulations as set forth in MGL Chapter 40A §6 and §10. The property is located at **22 Northern Ave.,** Map 6, Parcels E5-17 and E5-18 in the RH-1 Zoning District.

Voting on this case: Al Donoghue, Jamie Armstrong, Chris Murphy, Brian Sullivan and Tim Bailey.

Mr. Donoghue read the case into the record.

Attorney Crowell introduced himself and his clients, Scott and Erin Jordan and mother, Barbara. He then noted that the plan is a busy one, connecting the office to the main house via a breezeway. The current rec room is pre-existing, non-conforming and the plan will intensify that by moving it 7’ closer to the westerly lot line and the existing bunk house will move 7.2’ closer to the sideline. The southeastern setback improves as does the street setback. The site coverage is currently 44.3% and will go to 50.1%. The building coverage is compliant. He argued that these intensifications of existing non-conformities will not result in any increase in noise, odor, fumes, congestion, traffic or the like and will not present a substantial detriment to the entire neighborhood. Attorney Crowell asked the Board to grant the requested Special Permit.

The Board discussed details and all agreed that the plan fit the requirements for a Special Permit.

Mr. Armstrong moved to close the public hearing with a second by Mr. Bailey. The Board voted unanimously in favor.

Mr. Donoghue then moved and Mr. Armstrong seconded the motion to grant a Special Permit to demolish and replace a pre-existing, non-conforming single family dwelling as well as a detached 1-story wood frame building and shed. The application is pursuant to the Code of the Town of Harwich, §325- 54 and §325-Table 2 - Area Regulations as set forth in MGL Chapter 40A §6 for the property located at **22 Northern Ave.,** Map 6, Parcels E5-17 and E5-18 in the RH-1 Zoning District according to the plans submitted, the Board having found that the project will intensify one or more existing non-conformities, complies with the requirements of the Bylaw, Chapter 40A of the MGL, Deadrick, Gale and related cases, and will not subject the neighborhood to any substantial detriment. This Special Permit is subject to the following conditions:

1. There shall be no demolition, construction or new landscaping between June 30th and Labor Day of any year.
2. 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. c 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

The Board discussed 40B procedures, conditions and restrictions and the potential that there will be at least 1 new 40B comprehensive permit application in the near future.

The Board also discussed the requested modification of 36 Hiawatha Road (Case 2021-42) and all agreed that the suggested changes will require a return to the Board for official approval. Mr. Ryer moved and Mr. Donoghue seconded the motion to require that the applicants for Case 2021-42 return via application to the Board to present the details of their modification and to allow for a fee waiver for that application. Mr. Donoghue seconded the motion and the Board voted unanimously in favor.

Mr. Sullivan moved and Mr. Donoghue seconded the motion to approve the minutes from the September 29, 2021 meeting with clerical changes. The Board voted unanimously in favor.

Mr. Murphy moved to adjourn with a second by Mr. Sullivan. The Board voted unanimously in favor.

Authorized Posting Officer: Shelagh Delaney

Board of Appeals Recording Clerk