**HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS**

**Wednesday, May 26, 2021 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.** Call in instructions were posted on the meeting Agenda on the Board of Appeals web page.

The meeting was called to order at 7PMby the Chairman, David Ryer. He 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 26, 2021 at 7pm is being 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 who wish to watch the meeting may do so in the following manner on Channel 18 or by watching the simulcast at:

https://harwich18.dyndns.org/cablecast/public/Live. aspx?ChannellD=1

Members present: David Ryer, Al Donoghue, James Armstrong, Brian Sullivan and Tim Bailey. Absent member: Christopher Murphy

Mr. Ryer also noted that comments from the Health Department on all of the cases were available for review through the Accela Citizens access portal. He authorized, the designated individual in the Building Department, to stamp all of the case documents.

**Case # 2021-20**

Brian M. and Katherine E. Carey, through their agent, Lucas Colburn have applied for a Special Permit to convert their existing garage into habitable space in a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2 Area Regulations as set forth in MGL Chapter 40A §6. The property is located at **5 Lakeview Dr.**, Map 83, Parcel P2 in the RR Zoning District.

Mr. Donoghue read the case into the record. Members voting on this case: Mr. Donoghue, Mr. Armstrong, Mr. Sullivan and Mr. Bailey.

Lucas Colburn introduced himself as the agent for Brian M. and Katherine E. Carey and stated he would like to convert the garage into a living room, not expanding the footprint. He has received all the changes that need to be made per Board of Health.

The Board asked about why the site plan is increasing the site coverage and if the roof line will change.

Mr. Colburn stated the increase of site coverage includes expanding the deck with a step to the back door of garage and the roof line will not be changed.

There were no public comments.

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

Mr. Ryer noted that the project fits the requirements of the Gale Case with an intensification of one or more pre-existing non-conformities and no new non-conformity. It did not appear that there would be any substantial detriment to the neighborhood and suggested the alterations to the exterior deck be included with the special permit due to increased site coverage. The Board agreed.

Mr. Donoghue moved and the motion that the Board grant a Special Permit to convert their existing garage into habitable space, and addition of new porch with step, of a non-conforming single family dwelling according to the plans provided and pursuant to the Code of the Town of Harwich, §325-54 as set forth in MGL Chapter 40A §6 for the property located at **5 Lakeview Dr.,** the Board having found that the project will intensify one or more existing non-conformities, create no new non-conformity and not constitute a substantial detriment to the neighborhood with the following 2 conditions:

**1) For the life of the approved project, all construction vehicles will be parked on the Applicants’ property and not on any public street or road and**

**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. ch 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.**

Mr. Sullivan seconded the motions. No discussion from The Board. The Board voted unanimously in favor. Vote: 5-0-0; Special Permit is granted.

**Case # 2021-21**

Peter M. and Maureen Q. Tarca, through their agent, Attorney William Crowell have applied for a Special Permit to renovate and create a 6 foot addition with a dormer increasing habitable space within the setback of a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2 Area Regulations as set forth in MGL Chapter 40A §6. The property is located at **11 Shore Rd. Ext.**, Map 5, Parcel P1-28 in the RH-1 Zoning District.

Attorney William Crowell introduced himself and restated relevant portions of the application, noting setbacks and coverage. He is asking for special permit, under the Gale Case, to intensify existing non-conformity, regarding habitable space within the 20ft set-back. There will be no substantial increased noise, traffic, fumes, odors or the like; No substantial detriment to the entire neighborhood

Mr. Ryer asked Attorney Crowell about the notation stating existing deck to be alter to fit with proposed addition.

Attorney Crowell responded the existing deck is 12.2ft from lot line. The proposed deck will not be any closer than 12.2ft to the lot line. It may be altered to accommodate the bulkhead and outdoor shower.

Mr. Sullivan asked if the bulkhead and the shower will be moved.

Attorney Crowell responded only the bulkhead will be moved.

The Board had no further questions and there were no additional comments from the public.

Mr. Ryer moved to close the public hearing with a second by Mr. Armstrong. The Board voted unanimously in favor. Vote: 5-0-0; Special Permit is granted.

Mr. Ryer agreed the project meets the requirements of the Gale Case with intensifications of existing non-conformities, no new non-conformity and will not be more substantially detrimental to the neighborhood. Mr, Ryer would like to add a condition regarding the deck being no closer to the lot line.

Mr. Donaghue moved that the Board grant the Special Permit to renovate and create a 6 foot addition with a dormer increasing habitable space within the setback of a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, Table 2, Area Regulations and the Gale Case as set forth in MGL Chapter 40A §6 for the property located at **11 Shore Rd Ext,** according to the plans submitted, the Board having found that the project will intensify existing non-conformities and not subject the neighborhood to any substantial detriment. This Special Permit is granted subject to the following conditions:

1. N**o demolition, exterior construction nor new landscaping occur between the dates of June 30th and Labor Day of any year;**
2. **It is a condition of this approval 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, as these may be amended from time to time;**
3. **The altered deck will be no closer to the northeasterly lot line than 12 foot 5 inches**

Mr. Bailey seconded the motion. No discussion from the board. The Board voted unanimously in favor. Vote: 5-0-0; Special Permit is granted.

**Case # 2021-22**

Kathleen Zak Reis, Trustee of the Kathleen Zak Reis Revocable Trust Agreement, through her agent, Attorney William Crowell has applied for a Special Permit (or in the alternative, a Variance) to demolish & replace a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 as set forth in MGL Chapter 40A §6. The property is located at **4 Eastern Ave.**, Map 6, Parcel g3-8 in the RH-1 Zoning District.

Attorney William Crowell introduced himself and Kathleen Reis. He restated relevant portions of the application, noting setback, coverage and deck changes. He read a letter from an abutter, 10 Eastern Ave, in favor of the project. He asked for special permit, under the Gale Case, to intensify existing non-conformity. There will be no substantial increased noise, traffic, fumes, odors or the like; No substantial detriment to the neighborhood

Discussion ensued regarding setback and construction specifics.

The Board had no further questions and there were no additional comments from the public.

Mr. Ryer then moved to close the public hearing with a second by Mr. Donoghue. The Board voted unanimously in favor. 5-0-0

Mr. Ryer agreed that project meets the requirements of the Gale Case with intensifications of existing non-conformities.

Mr. Donaghue moved that the Board grant the Special Permit to demolish & replace a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, Table 2, Area Regulations and the Gale Case as set forth in MGL Chapter 40A §6 for the property located at **4 Eastern Ave,** according to the plans submitted, the Board having found that the project will intensify existing non-conformities and not subject the neighborhood to any substantial detriment. This Special Permit is granted subject to the following conditions:

1. N**o demolition, exterior construction nor new landscaping occur between the dates of June 30th and Labor Day of any year;**
2. **It is a condition of this approval 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, as these may be amended from time to time;**

Mr. Bailey seconded the motion. No discussion from the board. The Board voted unanimously in favor. Vote: 5-0-0; Special Permit is granted.

**Case # 2021-23**

Michael A. and Michaela A. Diverio, through their agent, Attorney William Crowell have applied for a Special Permit (or in the alternative, a Variance) to replace the existing foundation, build an addition, square off the southern side and add a deck to a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2 Area Regulations as set forth in MGL Chapter 40A §6 (or Chapter 40A §10).  The property is located at **68 Snow Inn Rd.**, Map 15, Parcel N9-2 in the RL Zoning District.

Attorney William Crowell introduced himself and Michael Diverio. He restated relevant portions of the application, noting setbacks and coverage changes. He said the Historic Committee has already approved the plans.  He read e-mails, in favor, from 3 abutters. 1st abutter, Alan Curtis -no addresss, said “No problem.” 2nd Abutter, Lynn Vine and Heather Pearson, 623 Route 28, “We are in favor of the proposed renovation.” 3rd abutter, at 64 Snow Inn rd, wrote a 3 paragraph letter enthusiastically in favor.  Mr. Crowell said the Renovations will not substantially increase noise, traffic, fumes, odors or the like; and no substantial detriment to the neighborhood.

Mr. Ryer asked if replacing the foundation would mean the house would have to be jacked up.

Attorney Crowell replied it will have to be jacked up and does require relief from the board.

Mr. Armstrong asked to go over the section about the stairwell.

Attorney Crowell answered stating the provision in the bylaws regarding a deck under 4ft in height, cuts the setback in half.

The Board had no further questions and there were no additional comments from the public.

Mr. Ryer then moved to close the public hearing with a second by Mr. Sullivan. The Board voted unanimously in favor. 5-0-0

Mr. Ryer stated this case meets the bylaw and the requirements of the Gale Case.

Mr. Donaghue moved that the Board grant the Special Permit to replace the existing foundation, build an addition, square off the southern side and add a deck to a pre-existing, non-conforming single family dwelling. The application pursuant to the Code of the Town of Harwich, Table 2, Area Regulations and the Gale Case as set forth in MGL Chapter 40A §6 for the property located at 68 Snow Inn Rd**,** according to the plans submitted, the Board having found that the project will intensify existing non-conformities and not subject the neighborhood to any substantial detriment. This Special Permit is granted subject to the following conditions:

1. N**o demolition, exterior construction nor new landscaping occur between the dates of June 30th and Labor Day of any year;**
2. **It is a condition of this approval 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, as these may be amended from time to time;**

Mr. Armstrong seconded the motion. No discussion from the board. The Board voted unanimously in favor. 5-0-0; Special Permit is granted.

Mr. Ryer said minutes for April are not ready to be approved.

Mr. Sullivan noted February minutes are not on the website.

Discussion ensued about limitations in terms of the The Gale Case

Mr. Ryer moved to close the public hearing with a second by Mr. Sullivan. The Board voted unanimously in favor. 5-0