**HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS**

**Wednesday, May 27, 2020 at 7:00 p.m.**

**VIA REMOTE ACCESS**

**MINUTES**

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

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

Mr. David Ryer opened the meeting at 7 PM and read the following statement:

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 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 in attendance:

David Ryer, Jamie Armstrong, Al Donoghue, Chris Murphy and Brian Sullivan.

**Case # 2020-17**

Margaret M. Tucci and Michael Tucci, through their agent, Attorney Benjamin Zehnder have applied for a Variance from the lot area requirement in order to build a single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-52 as set forth in MGL Chapter 40A §10. The property is located at **1361 Orleans Rd.,** Map 74, Parcel K2-3 in the RR Zoning District.

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

Attorney Benjamin Zehnder introduced himself and his clients, Margaret and Michael Tucci. He explained to the Board that they were looking for a Variance from the lot size requirement of 40, 000 square feet for the construction of a single family dwelling in the RR Zoning District. The lot in question is just over 23, 000 square feet in size.

Attorney Zehnder referred to all of the documents submitted with the application and told the Board that the lot was a part of a 3-lot subdivision created in 1972. The Town changed its requirement regarding minimal lot size in November of 1972 but the engineer did not submit his plans in time for the lot to be “grandfathered” but instead, submitted them 3 days after the Town warrant.

The Tuccis have sold their house and had every intention of moving to a new house to be built on this lot. They bought it in 2019 with the understanding that it was buildable as the other 2 lots had been developed after that 1972 submittal date. The plan is to build a modest 1478 square foot single story ranch house. The lot is small and trapezoidal in shape. The hardship would be financial as the owners have spent $131,000 to purchase the lot believing it was buildable. If a Variance is not granted, there isn’t anything they can do with the lot and that money would be wasted. There would be no derogation from the intent or purpose of the bylaw because the other lots in this subdivision are even smaller and they have houses. There will be no negative impact to the community.

Members of the Board wondered why the Town had not made provisions for minimally late submissions after the change in zoning and noted that some other cities and towns had done so.

Mr. Ryer suggested that because the lot has frontage on both Orleans Road and Old Heritage Way, the owners might want to change their address. He added that the shape and size of the lot fit the requirements for a Variance and certainly the Tuccis have suffered a hardship.

Mr. Donoghue moved and Mr. Sullivan seconded the motion to close the public hearing. The Board voted unanimously in favor.

Mr. Ryer moved to grant the requested Variance from the lot area requirement in order to build a single family dwelling pursuant to the Code of the Town of Harwich, §325-52 as set forth in MGL Chapter 40A §10 for the property located at **1361 Orleans Rd.,** Map 74, Parcel K2-3 in the RR Zoning District, the Board having found that the requirements for granting a Variance have been met. There is a condition that any construction vehicles be parked on Old Heritage Way and not on Orleans Road. Mr. Armstrong seconded the motion and the Board voted unanimously in favor. 5-0-0

Mr. Ryer authorized Shelagh Delaney to stamp the appropriate documents and to sign the decision in his name.

Mr. Ryer said that he had spoken with Don Howell who is now the liaison for the Board of Selectmen about interviewing all of the alternates before deciding who should move up as a full member.

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

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

Board of Appeals Recording Clerk