**HARWICH ZONING BOARD of APPEALS PUBLIC HEARING**

**Wednesday, May 29, 2019 at 7:00 p.m.**

**Griffin Meeting Room, Harwich Town Hall**

**MINUTES**

On Wednesday, May 29, 2019 at 7:00 PM, the Harwich Zoning Board of Appeals held a Public Hearing in the Griffin Meeting Room at the Harwich Town Hall, 732 Main Street to hear the following cases.

Members Present:

David Ryer, James Hilliard, Kathleen Muller, Dean Hederstedt, Al Donoghue and James Armstrong

7PM: Call to Order and introduction of members

**Case #2019-14**

John J. Powers and Lauren K. Powers, Trustees of the John J. Powers Qualified Personal Residence Trust, through their agent, Attorney William Crowell, applied for a Special Permit (or in the alternative, a Variance) to build additions and alterations onto 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 **3 Davis Lane**, Map 7, Parcel J9 in the RL Zoning District.

Members voting: Mr. Hilliard, Ms. Muller, Mr. Hederstedt, Mr. Donoghue and Mr. Armstrong

Attorney Crowell introduced himself and reiterated the details of the application adding that the property is held in 2 trusts and that the proposed addition to the 2nd floor of the existing guest house will come no closer to the lot line but is within the setback. The structures are all existing but there will be an additional roofed stairway. He said that the project will intensify existing non-conformities which according to the Gale Case requires a Special Permit. There will be no increase in traffic, noise, odor, fumes or the like and no substantial detriment to the neighborhood.

Mr. Ryer suggested that there be a condition on any Special Permit that might be granted saying that no oven, stove, range top or built-in microwave be allowed in the guest house as well as a limit on exterior construction during the summer months.

Mr. Hilliard read onto the record a memo by the Senior Health Agent, Katie Tenaglia saying that approval of a disposal construction permit for a fully compliant Title V septic system is required for the Health Department to sign off on any building permit.

Mr. Hederstedt made a motion to close the public hearing with a second by Ms. Muller.

During discussion, the Board all agreed that the project would intensify existing non-conformities, add no new non-conformity and offer no substantial detriment to the neighborhood as in the Gale Case.

Mr. Hederstedt moved and Mr. Armstrong seconded the motion to GRANT the requested Special Permit to build additions and alterations onto a pre-existing, non-conforming single family dwelling for the property at 3 Davis Lane according to the plans submitted, the Board having found that the Gale Case applies with intensifications of existing non-conformities and no new non-conformity and no substantial detriment to the neighborhood. There are 2 conditions:

1. That there be no oven, stove, range top or built-in microwave be allowed in the guest house;
2. That there be no substantial exterior demolition, construction or new landscaping between June 30 and Labor Day of 2019 and 2020.

Mr. Armstrong seconded the motion. The Board voted unanimously in favor. 5-0-0

**Case #2019-15**

James F. Drury and Kathryn R. Griffin, through their agent, Attorney William Crowell, 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, Table 2, Area Regulations and Table 3, Height and Bulk Regulations as set forth in MGL Chapter 40A §6 and §10. The property is located at **11 Ayer Lane,** Map 7, Parcel A2 in the RH-1 Zoning District.

Members voting: Mr. Hilliard, Ms. Muller, Mr. Hederstedt, Mr. Donoghue and Mr. Armstrong.

Attorney Crowell introduced himself and stated that the Applicants are looking to demolish and replace their home at the end of Ayer Lane. The proposed new dwelling will be conforming but there will be an intensification of the site coverage which is currently non-conforming. This is due to the enlargement of a patio and the addition of a pool. With no increase in noise, odor, fumes, congestion or the like and no substantial detriment to the entire neighborhood, Attorney Crowell asked that the Board grant the requested Special Permit.

Mr. Hilliard asked why the Applicants believed that such a significant increase in site coverage does not constitute a substantial detriment to the neighborhood. Attorney Crowell responded by saying that there will be no decrease in property values but more likely an increase in neighboring property values as a result of the project. He reminded the Board that none of the abutters had submitted any response to the notice of the project and that the abutter directly south had voiced his approval.

Beatrice Tenno, mother of the co-owner of 14 Pilgrim Road asked if the addition of the pool was part of the intensification of the site coverage. Attorney Crowell answered that it was.

Mr. Ryer said that the project fits within the style of other structures in the neighborhood and suggested a limitation on summer construction.

Mr. Hilliard read into the record a Memo from the Senior Health Agent, Katie Tenaglia saying that approval of a disposal construction permit for a fully compliant Title V septic system is required for the Health Department to sign off on any building permit.

Motion to close the public hearing was made by Mr. Hederstedt with a 2nd by Mr. Donoghue.

The Board all agreed that the project fits the reasoning of the Gale Case as it will intensify an existing non-conformity, add no new non-conformity and offer no substantial detriment to the neighborhood.

Mr. Hederstedt moved and Mr. Hilliard seconded the motion to GRANT the requested Special Permit to demolish and replace a pre-existing, non-conforming single family dwelling at 11 Ayer Lane according to the plans submitted, the Board having found that the Gale Case applies with an intensification of an existing non-conformity and no new non-conformity with no substantial detriment to the neighborhood with the condition that there be no substantial exterior demolition, construction or new landscaping between June 30 and Labor Day of 2019 and 2020. Mr. Hilliard seconded the motion. The Board voted unanimously in favor. 5-0-0

**Case #2019-16**

Claire E. McCabe, Thomas J. McCabe and Elaine Sweeney, through their agent, Thomas Moore of Thomas A. Moore Design Co. applied for a Special Permit to build additions and alterations onto 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. The property is located at **25 Grey Neck Lane**, Map 11, Parcel X8-6 in the RH-1 Zoning District.

Members voting: Mr. Hilliard, Ms. Muller, Mr. Hederstedt, Mr. Donoghue and Mr. Armstrong.

Thomas Moore of Thomas A. Moore Design Company presented the case. He introduced himself and restated details of the application saying that there will be intensifications of existing non-conformities, no new non-conformity and no substantial detriment to the neighborhood. He said that the house will remain a 3 bedroom house. He added that he had met with the Health Director who said that she would have no problem with the project but that the applicants do need to get approval from the Board of Health. Paperwork has already been filed to that end.

Mr. Hilliard read into the record a Memo from the Senior Health Agent, Katie Tenaglia which reviewed variances granted by the Board of Health in 1998. She restated conditions which applied at that time and still apply. She said that she would not recommend approval of a building permit without further approval by the Board of Health for this project.

Mr. Ryer said that if any other regulatory Board required changes to the plans that have been submitted to the ZBA, the Applicants will need to return for approval of those changes. He also pointed out that Section 325-54 allows for the continuation of existing non-conforming lines for structures that are pre-existing and non-conforming as long as the Board finds no substantial detriment to the neighborhood at large.

Mr. Hederstedt made a motion to close the public hearing with a second by Ms. Muller.

The Board all agreed that project meets the requirements of Section 325-54 and the Gale Case with intensifications of existing non-conformities and no new non-conformity as well as no substantial detriment to the neighborhood.

Mr. Hederstedt moved and Mr. Armstrong seconded the motion to GRANT the requested Special Permit according to the plans submitted to build additions and alterations onto a pre-existing, non-conforming single family dwelling for the property located at **25 Grey Neck Lane**, the Board having found that Section 325-54 and the Gale Case apply with the intensification of existing non-conformities and no new non-conformity with no substantial detriment to the neighborhood. The Board voted unanimously in favor. 5-0-0

**Case #2019-17**

C. Craig Conti applied for a Special Permit to construct a screened porch onto 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. The property is located at **19 Doane Way**, Map 13, Parcel X1-2 in the RH-1 Zoning District.

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Members voting: Mr. Hilliard, Ms. Muller, Mr. Hederstedt, Mr. Donoghue and Mr. Armstrong.

Mr. C. Craig Conti introduced himself and restated the details of the application adding that he and his wife have owned the property for 13 years with minimal changes or upgrades. They want to enclose an existing patio to become a screened porch with the construction scheduled for the fall.

Mr. Ryer asked for clarification of the plans submitted which looked as though there was an additional area of proposed construction but which Mr. Conti explained was part of an original dream long abandoned and not part of the current request. Mr. Ryer then suggested a condition which would keep contractor vehicles off of the street during the construction.

Mr. Hilliard read into the record a Memo from the Senior Health Agent, Katie Tenaglia which said that the Board of Health would have no issues with the project.

Mr. Hederstedt made a motion to close the public hearing with a second by Mr. Donoghue.

During discussion, the Board all agreed that the project fits the requirements of the Gale Case with an intensification of an existing non-conformity, no new non-conformity and no substantial detriment to the neighborhood.

Mr. Hederstedt made a motion and Mr. Hilliard seconded the motion to GRANT the requested Special Permit to construct a screened porch onto a pre-existing, non-conforming single family dwelling for the property located at **19 Doane Way** according to the plans provided with the condition that to the extent that any construction occurs between June 30 and Labor Day of 1029 or 2020, all contractor vehicles be kept on the property at 19 Doane Way and off of the road, the Board having found that the Gale Case applies with an intensification of an existing non-conformity, no new non-conformity and no substantial detriment to the neighborhood. The Board voted unanimously in favor. 5-0-0

Mr. Ryer handed out information for discussion regarding how to better interpret the term “intensification of an existing non-conformity but no new-non-conformity”.

Mr. Hilliard made a motion to accept the minutes from the April 24, 2019 meeting with a second by Mr. Donoghue. The Board voted unanimously to accept.

Mr. Hederstedt moved and Mr. Hilliard seconded the motion to adjourn and the Board voted unanimously in favor.

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

Board of Appeals Recording Clerk