.

Harwich Planning Board

Town Hall, 732 Main Street, Harwich, MA – Griffin Room

**MINUTES**

Tuesday, May 9, 2023 – 6:30 PM

This meeting of the Planning Board was held in-person and was available as a live broadcast on Channel 18.

Members Present: Duncan Berry Craig Chadwick, David Harris, Mary Maslowski, Ann Clark Tucker, Emily Brutti and Allan Peterson

1. **Recording Notice; Call to Order**

Mr. Berry opened the meeting and read the following notice:

*According to MA Law anyone who intends to record the meeting must first notify the Chair who will then inform the other attendees at the start of the meeting.*

1. **Pledge of Allegiance**
2. **Public Hearing**

**Case # PB2023-12 (CONTINUED FROM 4.11.23 and 4.25.23) Karen & George Oliver of Oliver Homes, LLC, through their agent, Kent Drushella** have applied for a Special Permit for an Alternate Access driveway. The application is pursuant to the Code of the Town of Harwich §325-18 K and MGL c. 40A Section 9. The property is located at 86 Miles St., Assessor’s Map 14 Parcel B9. The property is located in the Residential Low (RL) Zoning District. **THIS CASE IS BEING HEARD IN CONJUNCTION WITH**:

**Case # PB2023-04 (CONTINUED FROM 2.28.23, 4.11.23 and 4.25.23) Karen & George Oliver of Oliver Homes, LLC, through their agent, Kent Drushella** have applied for a Special Permit for a Two-Family Dwelling in order to build a 2nd residential structure connected by a roof or series of roofs. The application is pursuant to the Code of the Town of Harwich c.325-51 N, in accordance with MGL c. 40A Section 9. The property is located at 86 Miles St., Assessor’s Map 14 Parcel B9. The property is located in the RL Zoning District.

Mr. Berry read the legal notices into the record.

No testimony was taken.

On a request by the Applicants’ attorney, Mr. Chadwick moved and Mr. Peterson seconded the motion to continue cases PB2023-04 and PB2023-12 until no earlier than 6:30 PM on Tuesday, June 27, 2023. The Board voted in favor. 6-0-1 with Ms. Maslowski abstaining due to her absence at the previous hearing on the matter.

**Case # PB2023-11 (CONTINUED FROM 4.11.23 and 4.25.23) Paul Sweetser,** Agent for Dewitt P. Davenport, Tr**.** is requesting a Special Permit for a Two-Family Use in order to construct a duplex with two 2-bedroom units. The application is pursuant to the Code of the Town of Harwich §325-51N and MGL CH 40A sec 9. The property is located at 958 Orleans Rd., Assessor’s Map 51, Parcel S9 in the Residential Rural (RR) Zoning District.

Mr. Berry read the legal notice into the record.

Paul Sweetser introduced himself and Christian Davenport and offered copies to the Board of a landscape screening plan in response to requests from abutters. Davenport is proposing to add a number of western red cedars and green giant arborvitae for a visual shield to Ms. Shinkwin’s property at 950 Orleans Road.

Mr. Halkiotis said that he had joined a site visit with 2 abutters and Christian Davenport in order to assist with a discussion on screening. He added that there is still some disagreement between the parties with one of the abutters still wanting a “no disturb” zone. Mr. Sweetser countered that Davenport owns the lot and that they could put up a single-family home and remove all the trees. They are willing to compromise but don’t want to be dictated to.

Mr. Chadwick and Mr. Berry thought that the screening plan was a good one and a straight forward way to appease concerns of the abutters. Neither was in favor of a covenant in perpetuity. Ms. Shinkwin asked about a maintenance plan.

Mr. Halkiotis asked for clarification on the site plan and suggested that the screening plan be incorporated into a final site plan and submitted as a condition of any Special Permit.

Mr. Chadwick moved to close the public hearing with a second by Mr. Peterson. The Board voted 6-0-1 with Ms. Maslowski abstaining due to her absence at the previous hearing on the matter.

Mr. Chadwick then moved with a second by Mr. Peterson that the Board approve the findings as noted in the Planner’s Review, including that the use as developed will not adversely affect the neighborhood and the specific site is an appropriate location for such a use, structure or condition. The plan also demonstrates compliance with Section 325-51N for a two-family residence. The motion further granted a Special Permit for a Two-Family Use in order to construct a duplex with two 2-bedroom units pursuant to the Code of the Town of Harwich §325-51N and MGL CH 40A sec 9 for the property located at 958 Orleans Road with the following conditions: 1) that the Applicant provide to the Planner a final revision of the submitted site plan dated 11/22/22 showing the proposed screening plants; 2) that the decision be recorded at the Barnstable County Registry of Deeds and 3) that the buffer plants be maintained by the Applicant and that if they die, they will be replaced in season with plantings of equal or better quality. The Board voted in favor, 6-0-1 with Ms. Maslowski abstaining due to her absence at the previous hearing on the matter.

**Case # PB2023-14** Dillon Hoyt of Shoreline Pools, Agent for Alan Einhorn requested a Special Permit in order to build a residential pool within the Six Ponds Special District. The application is pursuant to the Code of the Town of Harwich §325-94 (A)(4) and MGL CH 40A sec 9. The property is located at 7 Cranberry Hollow Lane, Assessor’s Map 83, Parcel R2-6 in the Residential Rural (RR) District and the Six Ponds Special District.

Mr. Berry read the legal notice into the record.

Dillon Hoyt of Shoreline Pools introduced himself as well as the owner, Alan Einhorn. The proposal is to place an inground Gunite pool past the 300’ buffer line in the least environmentally invasive location as possible.

Mr. Halkiotis said that he had reviewed the application and listed the requested waivers. He added that the appropriate section of the Bylaw does not have specific requirements as to the construction of pools in the Six Ponds District but he offered draft conditions and suggested an enclosure for the pump mechanism. Mr. Hoyt responded that the pumps have gotten quieter and that a shed often reverberates the sound, making it worse. There is a buffer wall on one side and the house on the other.

There was some discussion regarding “ASM” barrier requirements. Mr. Hoyt said that the proposed certified automatic rolling cover satisfies that requirement without the need for a fence.

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

Ms. Maslowski moved and Mr. Peterson seconded the motion that the Board adopt the findings of fact as enumerated in the Planner’s Review. The Board voted unanimously in favor.

Ms. Maslowski then moved with a second by Mr. Chadwick that the Board allow the requested waivers, 1-9 as noted in the Planner’s Review. The Board voted unanimously in favor.

Ms. Maslowski moved with a second by Mr. Chadwick that the Board grant the Special Permit for Case 2023-14 in order for the Applicant to build a residential pool within the Six Ponds Special District pursuant to the Code of the Town of Harwich §325-94 (A)(4) and MGL CH 40A sec 9 for the property located at 7 Cranberry Hollow Lane with the following conditions:

1. Prior to draining water from the pool for closure in the off season, the owner shall not chlorinate or super chlorinate the pool for 3 days to lower the concentration of chlorine in the water.
2. The owner shall not discharge any pool water within 300’ of Aunt Edie’s pond located at the rear property line. Water discharged from the pool shall not cause any soil erosion.
3. The pool will have an ASTM certified automated rolling pool cover.
4. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address.
5. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

The Board voted unanimously in favor.

1. **Planning Board Business**

Paul Halkiotis briefed the Board on Town Meeting votes on the proposed Bylaw Amendments. They have been submitted to the Town Clerk for submission to the state Attorney General for review to see if any wording violates state or federal law. Generally, this takes about 90 days.

Mr. Halkiotis next spoke about a case heard on 3/28/23 and continued until 5/9/23 in order for the Applicants to request a variance from the ZBA for an undersized lot. Because of this confusion and the decision by the ZBA that he did not need a variance, the Applicant was under the impression that he would be heard again by the Planning Board on 5/9/23. He was not placed back on the agenda due to missed communication. Mr. Halkiotis asked that the Board continue Case 2023-08, 100 Route 28 until 5/23/23. The Board did so vote. This case will be first on the agenda for 5/23/23.

Mr. Halkiotis shared good news with the Board regarding the proposal by Tighe and Bond for the Local Comprehensive Plan update. They have local experience and are familiar with the Cape Cod Commission requirements. The Plan will have 2 separate stand-alone plans for Open Space and Recreation and Housing Production. This will involve the Planning Department’s attention for the next 2 years involving workshops, community outreach and other Board and Committee participation. The Planning Board’s role will be advisory.

The Town’s Hazard Mitigation Plan has expired so Mr. Halkiotis has put together an application for a grant to help update that plan and is hoping to hear from FEMA regarding a possible $20,000 grant.

The Planning staff has also completed and submitted the recertification application for the FEMA Community Rating System.

There was also discussion about how to implement best practices for storm water management plans to be accepted and reviewed. The Board of Selectmen is currently the permit grating authority for stormwater permits but because of the requirements in the Subdivision Rules and Regulations, there may be some redundancy in the Town’s requirements.

Mr. Halkiotis suggested that the Board set aside some time in the Fall to discuss the Town Meeting in 2024 in order to have enough time to prepare any amendments to the bylaw.

Ms. Maslowski moved with a second from Mr. Chadwick that the meeting adjourn. The Board voted unanimously in favor.