**HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS**

**Wednesday, SEPTEMBER 29, 2021 at 7:00 p.m.**

**MINUTES**

**BOARD MEMBERS PRESENT:**David Ryer, Al Donoghue, Jamie Armstrong, and Brian Sullivan; Associate Members: Tim Bailey, David Nunnally and Joseph Beasley

**BOARD MEMBERS ABSENT:** Chris Murphy

**CALL TO ORDER**: Mr. Ryer called the meeting to order at 7:02 PM having established a quorum.

Voting members for all cases will be David Ryer, Al Donoghue, Jamie Armstrong, Brian Sullivan and Tim Bailey

**PUBLIC HEARINGS**

**Case # 2021-43**

Frances M. Ratto Trustee of Sail Loft Road Nominee Trust, through their agent, Attorney William Crowell has applied for a Special Permit (or in the alternative, a Variance) to construct an addition above the garage of a pre-existing, non-conforming single-family residence. 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 **6 Sail Loft Road,** Map 7, Parcel D27 located RH-1 in the Zoning District.

Mr. Ryer stated the applicant’s agent, Attorney William Crowell, requested in writing to have the case withdrawn without prejudice and not require an additional fee when they come back.

Mr. Ryer moved thatthe Board grant the request for a withdrawal without prejudice in Case 2021-43 and credit the filing fee, so they will not have to pay an additional see when they return to the Board. Mr. Armstrong seconded. The Board voted unanimously in favor. Vote 5-0.

**Case # 2021-38**

Douglas R. Wheeler, Trustee of the Douglas R. Wheeler Revocable Trust, through his agent, Kieran Healy of the BSC Group, Inc. has applied for a Special Permit (or in the alternative, a Variance) to remove an existing uncovered stoop and replace it with an entry porch on 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 (or Chapter 40A §10). The property is located at **16 Pleasant Valley Rd.,** Map 101, Parcel X8-216 in the RL Zoning District.

Kieran Healy, of BSC Group, Inc., introduced himself as the representative, and restated relevant portions of the case, noting site coverage will be increased from 15.1% to 15.3% and is only covering an already existing stoop to allow the homeowners to be covered during bad weather when entering and exiting the home.

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

Mr. Ryer then moved to close the public hearing with a second by Mr. Armstrong. The Board voted unanimously in favor. Vote: 5-0-0. Public hearing is closed.

Mr. Donoghue moved that the Board grant the Special Permit to remove an existing uncovered stoop and replace it with an entry porch 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 as set forth in MGL Chapter 40A §6 for the property located **16 Pleasant Valley Rd.,** 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. All work shall be performed in accordance with the plans submitted with this application. This Special Permit is granted subject to the following 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.
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, and The Harwich Zoning Bylaw, 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 # 2021-39**

Vincent S. Camelio Life Estate and Marilyn Tuccelli Life Estate have applied for a Special Permit to add to an existing deck on 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 **15 Helena Ave.,** Map 14, Parcel A16-8 located in the RM/CV Zoning District.

Vincent Camelio introduced himself and his wife, Marilyn and restated relevant portions of the case, noting the east setback is the only issue and would like to add more outdoor entertaining space for safety during the pandemic.

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

Mr. Ryer then moved to close the public hearing with a second by Mr. Bailey. The Board voted unanimously in favor. Vote: 5-0-0. Public hearing is closed.

Mr. Donoghue moved that the Board grant the Special Permit to add to an existing deck 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 as set forth in MGL Chapter 40A §6 for the property located **15 Helena Ave.,** 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. All work shall be performed in accordance with the plans submitted with this application. This Special Permit is granted subject to the following 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.
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, and The Harwich Zoning Bylaw, 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 # 2021-40**

Ken and Nicole Moniz have applied for a Variance (or in the alternative a Special Permit) to construct a Farmer’s Porch onto 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 §10 (and Chapter 40A §6). The property is located at **50 Main Street Ext.,** Map 55, Parcel E1-1 located in the RL Zoning District.

Ken Moniz introduced himself and his wife, Nicole Moniz and requested a variance to build the farmers porch.

Mr. Ryer asked the applicant if they knew the requirement for a variance under Massachusetts General Law.

Mr. Moniz replied no.

Mr. Ryer explained the requirements to grant a variance and how the soil condition, shape, topography or current structures must present a hardship to the owners. He told the Applicant if the porch was decreased by 1 or 2 feet in width to meet the existing setback it could be done by right.

Discussion ensued regarding whether the applicant had a legal basis for a Variance.

Mr. Moniz asked to withdraw the application without prejudice.

Mr. Ryer moved that the Board grant the request for a withdrawal with our prejudice in Case 2021-40 and if the applicant refiles with 6 months the fee will be waived with a second by Mr. Donoghue. The Board voted unanimously in favor. Vote: 5-0-0

**Case # 2021-41**

David and Kelly Amaral, through their agent, Paul Muldoon of Muldoon Architects LLC., have applied for a Special Permit to convert a covered porch into habitable living space on 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 **5 Sea Breeze Ave.,** Map 6B, Parcel E1-17 in the RH-2 Zoning District.

Paul Muldoon introduced himself and restated relevant portions of the case, noting the only change will be the increase of habitable space in the existing covered porch.

Mr. Ryer asked when the owners bought the property and if the current owners installed the patio.

Mr. Muldoon responded the patio was added by a prior owner and he is unsure exactly when the current owners acquired the property.

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

Mr. Ryer then moved to close the public hearing with a second by Mr. Bailey. The Board voted unanimously in favor. Vote: 5-0-0. Public hearing is closed.

Mr. Donoghue moved that the Board grant the Special Permit to convert a covered porch into habitable living space 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 as set forth in MGL Chapter 40A §6 for the property located **5 Sea Breeze Av.,** 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. All work shall be performed in accordance with the plans submitted with this application. This Special Permit is granted subject to the following 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.
2. No demolition, exterior construction nor new landscaping on the project to occur between the dates of June 30th and Labor Day of any year
3. 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, and The Harwich Zoning Bylaw, 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. Vote: 5-0-0; Special Permit is granted.

**Case # 2021-42**

Alan P. and Barbara J. Rosenburg, through their agent, Attorney William Crowell, have applied for a Special Permit (or in the alternative, a Variance) to demolish and replace the pre-existing, non-conforming single-family residence. 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 **36 Hiawatha Rd,** Map 6, Parcel B1-3 located RH-1 in the Zoning District.

Attorney William Crowell, introduced himself, and restated relevant portions of the case, noting the new dwelling will slightly intensify the setback on the Southerly side and reduce site coverage from 36.6% to 35%. There will be no substantial increased noise, traffic, fumes, odors or the like; No substantial detriment to the entire neighborhood. Attorney Crowell noted the applicants’ last name and mailing address was incorrect on the agenda. The correct information is Rosenberg and 87 Blue Ridge Drive, 06770.

Discussion ensued about which Site Plan was the correct one. The correct Site Plan is dated August 26, 2021.

Mr. Ryer then moved to close the public hearing with a second by Mr. Bailey. The Board voted unanimously in favor. Vote: 5-0-0. Public hearing is closed.

Mr. Donoghue moved that the Board grant the Special Permit to demolish and replace the pre-existing, non-conforming single-family dwelling, according to the plans submitted. The application is pursuant to the Code of the Town of Harwich, Table 2, Area Regulations as set forth in MGL Chapter 40A §6 for the property located **36 Hiawatha Rd.,** 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. All work shall be performed in accordance with the plans submitted with this application. This Special Permit is granted subject to the following 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.
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, and The Harwich Zoning Bylaw, as these may be amended from time to time;

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

**APPROVAL OF PRIOR MEETING MINUTES**

Mr. Ryer moved to approve the minutes for August, Mr. Armstrong seconded. Vote 5-0

The motion carried; the June minutes were approved

**NEW BUSINESS**

Mr. Ryer introduced the two new associate members, David Nunnally and Joseph Beasley.

**ADJOURNMENT**

Mr. Ryer moved to adjourn the meeting at 8:16pm with a second by Mr. Donoghue. The Board voted unanimously in favor; motion carried.  Vote: 5-0 Meeting adjourned.