

HARWICH PLANNING BOARD
HARWICH TOWN HALL
732 Main Street - DONN B. GRIFFIN ROOM
TUESDAY, OCTOBER 23, 2018 - 6:30 PM
MINUTES

BOARD MEMBERS PRESENT: Chairman Jim Joyce, James Atkinson; Joseph McParland; David Harris; Craig Chadwick; and Mary Maslowski

MEMBER ABSENT: Allan Peterson

OTHERS PRESENT: Charleen Greenhalgh, Town Planner; Thaddeus Eldredge, P.L.S; Brendan Lowney, Cape Associates; Norman Clark, Harwich Fire Chief

CALL TO ORDER - 6:30 PM by Chairman, Joyce with a quorum present.

Chairman Joyce announced the Recording & Taping Notification: As required by law, the Town may audio or video record the meeting. Any person intending to either audio or video record the open session is required to inform the Chair.

PB2018-33 Heirs of Mark Nickerson, et al, and Robbins Family Trust, Definitive/Open Space Residential Development Subdivision, 0 Chatham Road (end of Periwinkle Way)
Representative: Thaddeus Eldredge, P.L.S

This is a continuation of a public hearing from September 11, 2018, the hearing remains open to allow for additional comments from the public. The applicants are seeking approval, with waivers, of a 5 lot Cluster Definitive Subdivision plan, pursuant to the Code of the Town of Harwich §400, Article II and MGL c.41, §81K-GG and Special Permits pursuant §325-51(E) - Open Space Residential Development; §325-18(P) - Panhandle Lots; and, §325-18(Q) - Alternative Access, this is shown on a plan entitled “Definition Subdivision Plan” Heirs of Mark Nickerson, Et Al, dated 07-17-2018, Sheets 1 - 7, prepared by East-Southeast, LLC. The property is located at the end of Periwinkle Way (aka 0 Chatham Road) Map 34, Parcel N7 and N10 in the R-R zoning district.

Mr. Eldredge noted that there were three items outstanding from the last meeting: 1) Pending ruling from the Board of Health regarding both the EIR and Definitive Subdivision approvals. 2) Home Owners Association documents; and, 3) NHESP ruling on Open Space. All three items have been addressed and the information has been provided. Additionally, the Town Engineering had raised a question about the drainage system. Mr. Eldredge spoke with the Town Engineering, who is satisfied with the system as designed.

Mrs. Greenhalgh reviewed her staff report dated October 15, 2018: 1) The surveyor has provided an area for the piling of snow during snow removal. The shared driveways have been designed to allow for this area. Please refer to Detail 2 on the Definitive Subdivision Plan, Sheet 1 of 7. 2) The open space will be protected by a Homeowners’ Association and the Conservation Commission. The Planning Board will need to see these documents and acceptance by the Conservation Commission prior to release of covenant or other performance guarantee. 3) All Board of Health conditions/restrictions will need to be noted on the plan prior to the Board’s endorsement of the plan. 4) The \$3,000 fee in lieu of construction of the sidewalk will need to be provided. Recommend that this be submitted prior to or at the time of plan endorsement. 5) The applicant is seeking four approvals: Open Space Residential Development – Special Permit;

Share Driveway – Special Permit for Alternative Access; Panhandle Lot; and, Definitive Subdivision. 6) The waivers requested are reasonable. 7) The recommended road name is: Blossom Circle. The Town Engineer is satisfied with the drainage as designed and Board of Health approval has been received.

There were no comments or questions from the audience and there were no questions or comments from the Board Members. On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously to close the hearing at 6:39 pm. Mrs. Greenhalgh reminded the Board that Ms. Maslowski was not eligible to vote on this application as she was not at the first hearing and the special permit requested would require a 2/3 vote of the members, so five votes in the affirmative to pass, while the definitive approval would require a simple majority.

The Boards review and vote referenced the following information and plans:

1. Letters dated August 6, 2018 from East-SouthEast, LLC to the Town Clerk and the Board of Health.
2. Copies of the Municipal Lien Certificates for the two properties involved.
3. Stormwater Management Drainage Calculations, dated July 27, 2018, prepared by Moran Engineering Associates, LLC.
4. Planning Board Application Form B-1.
5. Letter of Transmittal dated August 6, 2018 from East-SouthEast, LLC, including three (3) proposed road names and requested waivers.
6. Copy of Plan prepared at 1" = 100'
7. Set of Plans "Periwinkle Circle, A Residential Subdivision" prepared by the Heirs of Mark Nickerson et al, prepared East-SouthEast, LLC, dated 07-17-2018, revised 08-18-18 (as noted), Project No. C-4425-06.0 as follows:
 - a. Cover Sheet with Table of Content and Legend, Revised.
 - b. Definitive Subdivision Plan, Revised 05-09-18, scale 1" = 40', Sheet 1 of 7.
 - c. Topographical Plan, scale 1" = 40', Sheet 2 of 7.
 - d. Road Construction Plan, scale 1" = 40', Sheet 3 of 7.
 - e. Plan & Profile, Revised, Sheet 4 of 7.
 - f. Schematic Utility Layout, scale 1" = 40', Sheet 5 of 7.
 - g. Typical Road Details, scale as noted, Sheet 6 of 7.
 - h. Schematic Detail, scale 1" = 40', Sheet 7 of 7.
8. Harwich Board of Health Letter dated September 14, 2018.
9. Division of Fisheries & Wildlife letter dated October 2, 2018.
10. Draft Blossom Circle Articles of Association.

SPECIAL PERMIT - OPEN SPACE RESIDENTIAL DEVELOPMENT

Findings of Fact for the Open Space Residential Development

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 (Ms. Maslowski voting to abstain) to adopt and approve the following findings of fact related to the Open Space Residential Development Special Permit:

1. The open space residential development is preferable to a conventional residential subdivision.
2. The open space residential development is superior in design to a conventional subdivision.

3. Open space has been provided and generally conforms to the design requirements.
4. There are no wetlands or water bodies on the property.
5. The proposed street has been aligned to provide vehicular access to each house in a reasonable and economical manner.
6. Lots and streets have been located to avoid or minimize adverse impacts on open space, NHESP estimated/priority habitat, and to provide views of and access to the open space for all home sites.
7. All lots meet the applicable dimensional requirements.

Waivers Related to the Open Space Residential Development

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to approve a waiver from the Open Space requirement pursuant to Section 325-51.E as follows:

1. 50' Buffer Requirement: Section 325-51.E(4)(d) - The property to the south is owned by owners unknown. The applicants request to minimize or eliminate the 50' buffer to this parcel only. A buffer to the developed lots will be maintained.
2. Due to the fact that the property is located within NHESP estimated/priority habitat for Eastern Box Turtle and that future development in the area is better suited along Echo Woods Road and as such the creation of flexible open space would allow for future development provided equal or better open space is provided and approved by the Planning Board and NHESP.

Open Space Residential Development Special Permit

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to grant a special permit, with waivers, to the Heirs of Mark Nickerson, et al, and Robbins Family Trust, as owners, for a Special Permit pursuant §325-51(E) - Open Space Residential Development for a 5-Lot Cluster Subdivision for property located at the end of Periwinkle Way (aka 0 Chatham Road) Map 34, Parcel N7 and N10 in the R-R zoning district. The decision is based on the aforementioned findings of fact and the fact that the application meets the necessary requirement and criteria for approval.

SPECIAL PERMIT - ALTERNATIVE ACCESS

Findings of Fact for the Alternative Access Special Permit pursuant to §325-18(P)

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to adopt and approve the following findings of fact related to the Alternative Access Special Permit:

1. The alternate access proposed is superior to the access along the frontage.
2. The proposed alternate access will be cleared to a minimum of 16 feet in width and 16 feet in height.
3. The lot providing the easement will have the required legal frontage for the zoning district.
4. The plan provides for efficient and safe disposal of surface water.
5. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
6. The requested waivers will not substantially derogate from the purpose and intent of this bylaw and that such waiver may be granted without substantial detriment to the neighborhood or overall public good.

7. There will be no nuisance or serious hazard to vehicles or pedestrians.

Alternative Access Special Permit

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to approve the Alternative Access Special Permit pursuant to §325-18(P) for the proposed shared access for Lot 3 of the proposed subdivision based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval with the following condition(s): 1. A Driveway Easement Location Plan naming each lot effected shall be prepared and approved by the Planning Department or Planning Board. The approved plan shall be recorded at the Barnstable County Registry of Deeds.

PANHANDLE LOT APPROVAL PURSUANT TO §325-18(Q)

Findings of Fact for Panhandle Lots

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to adopt and approve the following findings of fact related to the request for Panhandle Lots:

1. Lot frontage and lot width within the panhandle portion is 25 feet wide, which is allowable under an Open Space Residential Development.
2. The length of the panhandle portion of a lot is less than 300 feet.
3. Suitable access by a driveway to such lot is provided within the panhandle and the access is wide enough and otherwise satisfactory for a driveway.
4. All panhandle lots meet the shape number requirements.
5. No panhandle portion of any lot is contiguous to another panhandle portion of a lot at the street line.

DEFINITIVE SUBDIVISION DECISION

Findings of Fact for the Definitive Subdivision

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 1 (Ms. Maslowski voting to abstain) to adopt and approve the following findings of fact related to the Definitive Subdivision:

1. Said subdivision for single-family homes is a permitted use in the underlying RR and the Water Resources district.
2. Said subdivision does not adversely affect the neighborhood.
3. All lots demonstrate compliance with minimum dimensional requirements for frontage, area and shape.
4. Board of Health requirements shall be met.
5. Proposed road construction satisfies all requirements, including the grade of the road, pursuant to §400-12 through 14; §400 Appendix 1-The Rational Method of Drainage Design; and Appendix 2 Tables 1 through 4.

Waivers from Subdivision Rules and Regulations

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 (Ms. Maslowski voting to abstain) to approve the following waivers from the Subdivision Rules and Regulations pursuant to §400, Article II:

1. Sidewalks: Section 400-14 M(1) – based on the finding that the location of the subdivision and the rural nature of the subdivision would not benefit from the construction of a sidewalk as part of the subdivision.

Definitive Subdivision

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted 5-0-1 (Ms. Maslowski voting to abstain) to approve with conditions for PB2018-33 Heirs of Mark Nickerson, et al, and Robbins Family Trust, as owners, c/o East-Southeast, LLC, with waivers, for a 5 lot Cluster Definitive Subdivision plan, pursuant to the Code of the Town of Harwich §400, Article II and MGL c.41, §81K-GG as shown on a plan entitled “Definition Subdivision Plan” Heirs of Mark Nickerson, Et Al, dated 07-17-2018, Revised 08-18-18, Sheets 1 - 7, prepared by East-Southeast, LLC. The property is located at the end of Periwinkle Way (aka 0 Chatham Road) Map 34, Parcel N7 and N10 in the R-R zoning district. The following conditions are imposed and required to be submitted prior to endorsement of the plan and covenant (*unless otherwise noted*):

1. Board of Health conditions shall be noted on the Definition Plan, Sheet 1.
2. The road shall be known as Blossom Circle and shall be changed on the plan prior to endorsement.
3. This decision (true copy attested), following the expiration of the 20-day appeal permit, shall be recorded at the Barnstable County Registry of Deeds, with a copy returned to the Town Clerk and the Planning Board for the case file.
4. A standard Planning Board Agreement and Covenant shall be fully executed and recorded at the Barnstable County Registry of Deeds, with a copy returned to the Town Clerk and the Planning Board for the case file.
5. The Homeowners Association document and the agreement with the Harwich Conservation Commission to oversee the open space shall be recorded at the Barnstable Registry of Deeds and a copy shall be return to the Town Clerk and the Planning Board for case file prior to the release of covenant and/or other performance guarantee.
6. The applicant shall follow all requirements and inspections for the construction of the way.
7. A fee, in the amount of \$3,000, in lieu of the construction of the sidewalks shall be submitted to the Planning Board prior to or at the time of Planning Board endorsement.

PB2018-35 Christopher and Lisa Barton, Use Special Permit - Bedroom in an Accessory Structure, 11 River Pine Circle

Representative: Brendan Lowney, Cape Associates

The Chair opened the hearing at 6:50 pm by reading the legal notice into the record, the applicants seeks approval of a Use Special Permit with waivers for an Accessory structure with Bedrooms pursuant to the Code of the Town Harwich 325-13, 325 Attachment 1, Paragraph I, Line 1.b. and §325-51. The proposal seeks to construct a detached 2-story garage with a bedroom above in the same footprint as the existing garage. The property is located at 11 River Pine Circle, Map 11, Parcel P3-15, in the R-L Zoning District.

Mr. Lowney thanked Mrs. Greenhalgh for the staff report she prepared. He explained that his clients want to demo an existing garage, rebuild it and have a new bedroom above. This has gone before the Conservation Commission and received approval.

Mrs. Greenhalgh reviewed her staff report. Water and Fire Departments had no concerns
Police Department: From a Law Enforcement / Criminal Justice standpoint the Police has no issue with this project. Conservation Department: Must follow plans and order of conditions approved by conservation commission SE-32-2303. Any changes will need additional conservation review. Health Department: The septic system was installed in 2015, and is designed for a total of 6 bedrooms. The floor plan reflects only 5 actual bedrooms in the main house, therefore the current septic system can accommodate one additional bedroom above the garage. A disposal system construction permit will be required to connect the garage sewer line to the existing septic system. However, the floor plan must remain the same as is depicted on the plans drawn by Cape Associates, Inc. dated 01/09/2018. Should the floor plan change, and this will be used as an accessory apartment with a kitchen, a two-compartment septic tank, or two tanks in series, will be required per Title 5 regulations. A fully compliant septic system will be required. No variances from Title 5 or local Regulations will be granted. A walk-through by the Health Department will be required prior Certificate of Occupancy issuance. Engineering: Site Plan needs to be stamped by a professional land surveyor. Side yard setback appears to be 21.8'; need surveyor's verification. Mrs. Greenhalgh noted that revised plans were submitted.

Additional Planning Staff Comments, included 1) Although the applicants have only requested a waiver from the requirement to submit drainage calculations, it has become practice that waivers for these types of applications are standard and include any and all commercial or residential requirements of the Bylaw that are not applicable to this application. Many of the requirements are designed for commercial and/or major residential projects, not for smaller special permit requests. 2) At this time it would appear that all requirements have been met

Mr. Joyce asked for comment from the Board, hearing none he opened it up to the public. There were no comments or questions. On a motion from Mr. McParland, seconded by Mr. Atkinson, the hearing was closed by unanimous vote at 6:56 am.

The Board reviewed the proposal as detailed in the submitted application packet and information as follows:

1. Form A Planning Board Application.
2. A Zoning District Compliance Table.
3. A project description.
4. Waiver Request.
5. Site Study Topographic Plan of 11 River Pine Circle, Harwich, MA prepared for Lisa and Christopher Barton, dated June 5, 2012, scale 1" = 20', prepared by Cape Cod Engineering, Inc.
 - a. Sheet SK-1 showing renderings of the garage and main house.
 - b. Sheet A1.0 – Foundation Plan.
 - c. Sheet A1.1 – Garage Level Plan.
 - d. Sheet A1.2 - Upper Level Plan.
 - e. Sheet A2.0 – Proposed Elevations
 - f. Sheet A3.0 – Building Section
6. 11 River Pine Circle, Certified Plot Plan of Land in Harwich, MA as prepared for Christopher J. Barton & Lisa M. Barton, May 9, 2012.

Waivers

On a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted to unanimously approve the requirement to submit drainage calculations and waivers of all commercial or residential requirements of the Bylaw that are not applicable to this Petition.

Findings

On a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted to unanimously approve the following findings:

1. The property is located within the R-L Zoning District.
2. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
3. The site is an appropriate location for such use.
4. The accessory structure will not contain a stove and therefore is not a kitchen and is not an accessory apartment as described in §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment”.
5. The proposed parking area will provide sufficient off street parking which meets the minimum requirements of Town Code and as such, there will be no nuisance or serious hazard to vehicles or pedestrians.

Use Special Permit

On a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted to unanimously approve with conditions the Use Special Permit and waivers for PB2018-35 Christopher and Lisa Barton, as owners, for an Accessory structure with Bedrooms pursuant to the Code of the Town Harwich §325-13, 325 Attachment 1, Paragraph I, Line 1.b., §325-14.Q and §325-51 for the construction of a detached 2-story garage with a bedroom above in the same footprint as the existing garage for property located at 11 River Pine Circle, Map 11, Parcel P3-15, in the R-L Zoning District. The approval is based on the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich with the above findings and following conditions.

1. The accessory structure is not an accessory apartment pursuant to §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment” and shall not contain a kitchen.
2. All Board of Health and Conservation Commissioner requirements shall be met.
2. The special permit decision shall be recorded at the Registry of Deeds.
3. Any changes to the plan shall be subject to further Planning Board review.

PB2018-36 Town of Harwich (Fire Department), 1464 Route 39 (aka 149 Route 137), Waiver of Site Plan

Representative: Norman Clarke, Fire Chief

The Chair called this portion of the meeting to order my reading the case into the record. The applicant seeks approval of a Waiver of Site Plan for specific landscape improvements and a maintenance access drive at the corner of the East Harwich Fire Station 2. The property is identified as Map 87, Parcel J1 and is now known as 1464 Route 39 in the C-H-1 and W-R Zoning Districts. The application is pursuant to the Code of the Town Harwich §325-55.F.

Chief Clarke explained that once the new station was approved the DPW Director thought this was a good time to clean up the remainder of the site, which was supposed to have been done at

the time the monopole cell tower was installed. The landscape design was completed in-house with the assistance of Amy Usowski, Conservation Administrator, Charleen Greenhalgh, Town Planner and Paul Sweetser, Town Surveyor. This will be a phase project as there are no funds available to complete the project. There is the ability to remove trees and loam and seed.

Mrs. Greenhalgh reviewed the staff report. There were no comments from any departments, except for Fire, which had no concerns. The landscaping proposed for Fire Station 2 will blend and transition nicely with this proposal. This will be a vast improvement to this corner. I attended an onsite with other Town Staff at this location back in September. It was quite clear that many of the pine trees at this location are not healthy and if not removed soon, will be falling down. The hardwoods (oaks primarily) will be retained. At this time there are no additional comments and there are no concerns.

Mr. Harris suggested speaking with the Harwich Garden Club, they may be of assistance. Chief Clarke also noted the CCTech as a possibility. Mr. McParland asked why the proposed walkway did not connect with the Rte 137/39 intersection. Chief Clarke noted that there is limited public parking at the new station and that existing parking would be utilized.

Mr. Chadwick noted that for full disclosure he sat on the Station 2 study committee. He is pleased that this improvement is coming forward at this time. He is supportive of the proposal. He did ask if a walk could be included from the intersection corner to the proposed walkway. Mrs. Greenhalgh stated that this could be made a condition. He then spoke to the access drive that is proposed for the tower. Chief Clarke explained that this would not be needed as access can occur from the Fire Station employee's lot.

Mr. Joyce is opposed to this plan. This is a microwave tower and he is concerned that has not been provided with a study as to the effects of this on people in and around the existing tower. There is a lot of energy in and around the base of the tower. At this time he is only supportive of the access for those maintaining the tower. A lengthy discussion ensued regarding the tower and safety issues both for and against the proposal. There was a discussion about continuing the matter to a future meeting to allow for the submittal of information regarding the tower and safety from the energy emanating from it. Mrs. Greenhalgh suggested that the Chief request a withdrawal without prejudice as the gathering of this information may take some time.

Chief Clarke requested a withdrawal without prejudice of the application before the Board. Mr. McParland made a motion to allow for the withdrawal without prejudice of case number PB2018-36, seconded by Mr. Atkinson. The motion carried on a vote of 5-1-0 (Mr. Chadwick voting against).

Minutes – September 25, 2018

On a motion by Mr. McParland, seconded by Mr. Atkinson, the Board voted to approve the Vote: 6-0-0).

Advisory Opinions:

Mrs. Greenhalgh noted that case number Case #2018-32 for Outer Cape Health Services, they are seeking a use Variance to demolish and replace existing structures in order to create dormitories if the use is approved, it would come to the Planning Board for site plan review. She provided a draft memo that she plans to submit in her role as Town Planner. The Board agreed

that because this may come before them for site plan review, they would not comment. There were no other comments on any other applications.

Zoning Amendment Process - Primer

As there are some newer members on the Planning Board, Mrs. Greenhalgh thought it might be helpful for a primer on the zoning amendment process. She provided the following process:

- (1) Zoning amendments are governed by MGL ch. 40A Section 5.
- (2) A zoning amendment (“bylaw”) can be sponsored/proposed by the Planning Board, Zoning Board of Appeals, Board of Selectmen or my petition.
- (3) A proposed bylaw is submitted to the Board of Selectmen, who is required to refer it to the Planning Board to begin the public hearing process within 14 days of receipt.
- (4) The Planning Board is required to hold a public hearing within 65-days of receipt of the proposed bylaw.
- (5) Once a public hearing is scheduled the Planning Board must:
 - a. Advertise the public hearing twice for the proposed bylaw providing adequate detail within the legal notice about the amendment and where the full text can be found, no less than 14-days and no less than 7-days prior to the scheduled public hearing.
 - b. The abutting Towns Planning Boards, the Cape Cod Commission, DHCD and any non-resident property owner who had filed a request with the Town Clerk and whose property lies in the district where the zoning change is sought are notified by mail.
 - c. The legal notice must also be posted in a conspicuous place in the Town Hall not less than 14 days before the scheduled public hearing.
- (6) The Planning Board must make a report with recommendations.

Review and Discussion of working Zoning Changes:

Mrs. Greenhalgh provided a brief overview of each item. The Board will discuss these in greater detail at the November meetings. Additionally, she would recommend that drafts go to the Zoning Legal Counsel before any referrals are made to the Board of Selectmen and public hearings scheduled.

Sign Code – “A-Frame” Signs and Fines

The existing definition, pursuant to §325-25 is: “A-FRAME/EASEL/SANDWICH SIGNS” - Usually a double-faced, freestanding, portable sign.

The recommended/suggested Definition is: “A-FRAME/EASEL/SANDWICH SIGNS” – Usually a double-faced, freestanding, portable sign made of wood, cardboard, plastic, or other lightweight and rigid material having the capability to stand on its own support(s), with no moving parts or lights.

It is further recommended that a new §325-29.H be added to read as follows:

H. A-Frame/Easel/Sandwich Signs.

- (1) A sign permit from the Building Department shall be required;
- (2) The sign shall be six (6) square feet or less per side, with the height not exceeding 3 feet;
- (3) The sign area (one side only) shall count towards the total allowable sign square footage for the business;

- (4) The sign may indicate only the name of the business, the special event, the hours of operation or sale of a product and price;
- (5) Only one (1) double-faced sign per business may be located on a property; a business with street frontage on two streets, may have one (1) such sign on each street front; however, if there are multiple businesses on a property there shall be no more than one (1) such sign allowable per business regardless of the street frontage;
- (6) The sign may be displayed only when the business is open to the general public;
- (7) The sign shall comply with the requirements of §325-26.

And further that a new §325-29.I be added to read: Violations. Any violations of this bylaw shall be subject to §325-48 (Violations and penalties.)

Ms. Maslowski express concerns that such signs should not be placed on sidewalks and further that non-criminal dispositions should be utilized (daily tickets) pursuant to MGL c.40 §21D. Mrs. Greenhalgh noted that pursuant to §325-26, signs are not allowed on sidewalks whether public or private. She will look into non-criminal tickets. Mr. Harris raised questions about light-weight sizes and the need to anchor them. Mr. Atkinson asked about signs for the Mariner’s Games, band concerts, etc. Mrs. Greenhalgh noted that non-profit and town agencies are exempt.

Building Height – Flood Plain

Mrs. Greenhalgh explained that there have been issues with existing buildings within a flood plain and the matter of elevating them for Flood Insurance purposes. The following draft language has been proposed and is based on language from the Town of Dennis, who in turn based it on language used in New Jersey.

To see if the Town will vote to amend the Town’s Zoning Bylaw Article XVII – Flood Plain Regulations by 1) changing §325-108 Definitions to §325-109 Definitions and 2) adding a new §325-108 “Special Provisions for Lifting Existing Structures to New and Appropriate Elevations” and by adding four new definitions, alphabetically, to the new §325-109 Definitions, and further to amend §325-2 Word usage and Definitions “Building/Structure Height” paragraph B by deleting the existing language and replacing it, as follows:

§325-108 Special Provisions for Lifting Existing Structures to New and Appropriate Elevations

(1) Notwithstanding the provisions of any other provision of the Harwich Zoning By-law to the contrary, except as otherwise provided pursuant to paragraph (3) of this subsection, a person shall be allowed to lift an existing structure located in an Area of Special Flood Hazard to a new and appropriate elevation, or constructing a staircase or other attendant structure necessitated by such raising without the need for Board of Appeals relief, provided, however, this exemption shall apply only to the minimum extent or degree necessary to allow the structure to meet the new and appropriate elevation with adequate means of ingress, egress and accommodation of typical basement facilities.

(2) Appurtenant to lifting an existing structure, the existing structure may be relocated elsewhere on the lot as long as said relocation does not create a new, or increase the intensity of a setback nonconformity.

(3) The exemption established pursuant to paragraph (1) of this subsection shall not be available to a person who has altered or is seeking to alter the original dimensions of a structure if, had the alteration not been made, the structure could have been raised to meet the new and appropriate elevation either without the exemption or with an exemption of lesser degree than is needed with the alteration.

And,

§325-109 Definitions, as the following:

ATTENDANT STRUCTURE means an area to accommodate utilities, laundry facilities or mechanicals which are otherwise typically located within a basement area.

EXISTING STRUCTURE means any commercial or municipal structure or residential dwelling that currently exists, or existed prior to the catastrophic event, at the time a request is made to elevate.

HIGHEST APPLICABLE FLOOD ELEVATION STANDARD means the one-percent (1%) FEMA base flood elevation plus up to an additional three (3) feet.

NEW AND APPROPRIATE ELEVATION means any elevation to which a structure is raised, or is to be raised, that is equal to or higher than the applicable FEMA base flood elevation, provided, however, in no case shall the new and appropriate elevation exceed the highest applicable flood elevation standard.

Retaining Walls for Septic Systems

The following draft language was quickly reviewed:

To see if the Town will vote to amend the Town's Zoning Bylaw §325-16, Table 2 and to add a new subparagraph "R. Retaining Wall(s) for Septic Systems" to §325-17, as follows:

§325-16, Table 2, add a Note "3" to the "Front (feet)", "Side (feet)", and "Rear (feet) columns, which shall read as follows:

"³May be reduced for Septic System pursuant to §325-17.R"

And,

§325-17 add a new subsection "R. Retaining Wall(s) for Septic Systems" to read as follows:

"R. Retaining Wall(s) for Septic Systems. On an improved parcel, a retaining wall(s) associated with the installation of an upgraded septic system (e.g. mounded septic system) required by the Board of Health and/or Title 5, shall be exempt from the setback requirements. In no case shall said exemption be allowed for new construction on a vacant lot.

Accessory Apartments

The following draft language was quickly reviewed:

§325-51. H. Single-family dwelling with accessory apartment.

(1) Purpose. The intent of permitting accessory apartments is to:

- a. Increase the number of small dwelling units available for rent in Town;
- b. Increase the range of choice of housing accommodations;
- c. Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- d. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.

(2) Definitions.

OWNER One or more individuals holding title to the property.

(3) Criteria for accessory apartment within an existing single-family dwelling structure are allowable by right, provided the criteria outline in paragraph 4, a-l, with the exception of j, of this bylaw are met. The Building Commissioner shall review said criteria upon the application of a change of use for said accessory apartment. In addition, the accessory apartment within an existing single-family dwelling structure shall comply with paragraphs 5 – 7 of this bylaw.

(4) Criteria for special permit approval. Special permits for single-family dwellings with a detached accessory apartment, may be granted upon determination by the Planning Board that the following criteria have been met:

- a. Only one accessory apartment is permitted for each principal dwelling unit.
- b. The accessory apartment may not be held in separate ownership from the principal use.
- c. Only one of the principal dwelling or accessory apartment may be rented at any given time.
- d. The accessory apartment shall have a net floor area not exceeding 1/2 of the net floor area of the principal dwelling unit and not more than 900 square feet.
- e. The accessory apartment shall have not more than two bedrooms.
- f. At least one off-street parking space shall be provided for the accessory dwelling unit.
- g. The minimum lot area required for a parcel to be eligible for a special permit to allow an accessory apartment shall not be less than 15,000 square feet if the parcel is situated in a RH-1, CV, CH-1, MRL or MRL-1 District; 20,000 square feet if situated in a RL, RM or RR District; and 40,000 square feet if situated in a Water Resource (WR) Overlay District.
- h. The accessory apartment shall be designed so that, to the degree reasonably feasible, the appearance of the property remains that of a single-family property with matching materials, colors, window styles and roof design for one structure, if the apartment is attached, or for both structures, if the apartment is detached.
- i. The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms.

- j. The proposed use shall not create traffic hazards or volume greater than the capacity of the streets affected.
 - k. The proposed use shall not exceed the building or site coverage for the zoning district.
 - l. If an addition is to be built for the proposed use, the addition shall be set back from front, side and rear lot lines the distance required in the zoning district for new construction.
- (5) The applicant shall record with the Registry of Deeds for Barnstable County a certified copy of the special permit decision and the special permit shall lapse if it is not so recorded and if it is not duly exercised within two years as provided for under MGL c. 40A, § 9.
- (6) Transfer of ownership. The provisions of the special permit may be transferred with ownership of the property provided all provisions of the Zoning Code of the Town of Harwich and the State Building Code are met.
- (7) A final determination that the owner failed to comply with these provisions or the termination of occupancy by the owner of the subject property shall be evidence that the rights and benefits conferred under the special permit were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted.

2019 Meeting Schedule

On a motion from Mr. McParland, seconded by Mr. Atkinson, the Board voted unanimously to approve the meeting/hearing schedule for 2019

Old Business: None

Adjourn

On a motion from Mr. McParland, seconded by Mr. Atkinson, the meeting adjourned at 7:54pm.

Respectfully submitted,

Charleen Greenhalgh

Adopted: November 15, 2018