

**HARWICH PLANNING BOARD  
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH  
VIA REMOTE PARTICIPATION GoToMeeting.com  
TUESDAY DECEMBER 1, 2020 – 6:30 PM  
MEETING MINUTES**

**BOARD MEMBERS PRESENT:** Chairman, Duncan Berry; Vice-Chairman, Allan Peterson; William Stoltz; Joe McParland; Arthur Rouse; Mary Maslowski; and Craig Chadwick, were all present via remote participation.

**BOARD MEMBERS ABSENT:** David Harris.

**OTHERS PRESENT:** Joe Powers, Interim Town Administrator; Thadd Eldredge; William Crowell; and other.

**CALL TO ORDER** - 6:31 PM by Chairman Berry with a quorum present.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, 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 Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

**PB2020-24 195 Queen Anne Road LLC, 195 Queen Anne Road, Site Plan Review Special Permit**

Chairman Berry reopened the hearing by reading the legal notice into the record. 195 Queen Anne Road, LLC, as applicant, George A. McLaughlin III, as manager, Daniel A. Ojala, P.E., P.L.S., as representative, seeks approval of a Site Plan Review Special Permit and a Special Permit for structures with a gross floor area > 7,500 SF and 20 or more new parking spaces pursuant to the Code of the Town of Harwich §325-55 and §§325-9 and -51 to construct an industrial warehouse/contractor structure (7 bays, 9,000 sf). The property is located at 195 Queen Anne Road, Map 58, Parcel F1-2, in the I-L. The applicant has requested a continuance to January 12, 2021.

Mr. McParland made the motion to continue the hearing to January 12<sup>th</sup>, 2021 no earlier than 6:30 PM, seconded by Ms. Maslowski, unanimously so voted via roll call (7-0-0).

**PB2020-29 David & Kristen Kimball, 452 Long Pond Drive, Use Special Permit with Waivers**

***Representative:*** William Crowell

Chairman Berry opened the hearing at by reading the legal notice into the record. David & Kristen Kimball, owners, William D. Crowell, Esq., representative, seeks approval of a Use

Special Permit with waivers for a residential accessory structure with bedrooms. The application is pursuant to the Code of the Town of Harwich §§325-09 and -51. The property is located at 452 Long Pond Drive, Map 104, Parcel E8-2, in the R-R zoning district.

Mr. Crowell began the hearing by explaining that this is a very straight forward petition. The garage already exists, and the foot print is not changing. The bedrooms already exist, this is planning ahead by the homeowner. They wish to build bedrooms above the garage, and the proposed use will not affect the neighborhood. No nuisance or hazard, adequate and appropriate facilities for the proposed use. Originally there was concerns from the Board of Health regarding the septic, but that has been addressed.

Mr. Stoltz raised the concern of a lack of second egress.

Mr. Powers read the planners report into the record, as well as a letter of support received earlier that day. Conservation: As long as not work is occurring within 100' of the wetland, Conservation has no concerns. Health Department: The Health Department has several requirements that must be completed prior to building permit approval, none which should negatively impact the Planning Boards decision. The items below will be handled at the staff level, and are meant to be an FYI for the applicant if the Planning Board grants their request. 1. The septic system is designed to accommodate 6 bedrooms maximum. Our records indicate that there are 5 existing bedrooms in the main dwelling, as offices are considered bedrooms. We would need accurate floor plans of the main dwelling in order to determine existing bedroom count. If we deem there are 5 bedrooms existing in the main dwelling, then either a bedroom needs to be eliminated, or a fully compliant 7 bedroom septic system needs to be installed. No variances from Title 5 or local requirements will be granted. 2. A passing Title 5 inspection is required prior to building permit approval. If the inspection finds that the driveway was placed over the leaching field as shown on this plot plan, then this must be corrected. A vent will also need to be added. The inspection may also determine that the chambers are H-20, and are rated for vehicular traffic. 3. A Disposal System Construction Permit must be applied for by a licensed septic installer to connect the dwelling to the tank. A site plan must be provided showing the sewer line connection, proposed water line, and elevations from the foundation to the tank. 4. If a kitchen is ever added, then either a two-compartment septic tank, or two septic tanks in series must be installed. Water and Police Department: No issues DPW and Fire: No concerns. Planning Staff Comments: 1. The Town Engineer and Town Planner met to review the application on November 3, 2020 and we had no issues or concerns with the application as submitted. 2. The following conditions are recommended: a. 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. b. All Board of Health requirements shall be met. c. There shall be no rental or letting of these bedrooms. d. Any changes of the use or changes to the plan may be subject to further Planning Board review. e. The special permit decision shall be recorded at the Registry of Deeds.

Mr. Powers summarized the letter of support from Greg Stone.

A lengthy discussion ensued regarding second egress concerns.

Mr. Chadwick made the motion to close the public hearing, seconded by Ms. Maslowski, unanimously so voted via roll call (7-0-0).

On a motion from Mary Maslowski and seconded by Joe McParland, the Planning Board voted unanimously (7-0-0) by roll call vote to approve waivers of any and all commercial or residential requirements of the Bylaws that are not applicable to the Petition before us.

### **Findings**

On a motion from Mary Maslowski and seconded by Joe McParland, the Planning Board voted unanimously (7-0-0) by roll call vote to adopt the following findings:

1. The property is located within the R-R 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 shall not contain a stove and therefore is not a kitchen and is not an accessory apartment as defined 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.

On a motion from Mary Maslowski and seconded by Bill Stoltz, the Planning Board voted unanimously (7-0-0) by roll call vote to approve with conditions the Use Special Permit and waivers for PB2020-29 David & Kristen Kimball for a residential accessory structure with bedrooms pursuant to the Code of the Town of Harwich §§325-09 and -51 for the property located at 452 Long Pond Drive, Map 104, Parcel E8-2, in the R-R 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 requirements shall be met.
3. There shall be no rental or letting of these bedrooms.
4. Any changes of the use or changes to the plan may be subject to further Planning Board review.
5. The special permit decision shall be recorded at the Barnstable County Registry of Deeds.
6. Approval of this Use Special Permit is conditioned on the inclusion of a second means of egress for the location if required by the Building Inspector, and if so required revised plans shall be forwarded to the Planning Director for subsequent approval prior to the issuance of a building permit.

### **PB2020-28 Cape Cod Oil Company, 6 Station Avenue, Site Plan Review Special Permit**

Chairman Berry opened the hearing by reading the legal notice into the record. Cape Cod Oil Company, H. Tasha, TR. of M.J.T. Enterprises, as applicant, Jacobs Driscoll Engineering, Inc., as representative, seeks approval of a Site Plan Review Special Permit with waiver to establish and install two (2) 30,000 gallon propane tanks along with appurtenant equipment fixtures and

site features pertinent to the establishment of a new Heating Fuel Resale and Storage use, which is an allowable use within the zoning district. The application is pursuant to the Code of the Town of Harwich §325-55. The property is located at 6 Station Avenue, Map 39, Parcel K3, in I-L zoning district. Please note: the applicant has requested a continuance to Jan. 12, 2021

Ms. Maslowski made the motion to continue the public hearing for PB2020-28 Cape Cod Oil Co. to Tuesday, January 12, 2021, not earlier than 6:30pm, seconded by Mr. McParland, unanimously so voted via roll call (7-0-0).

**MINUTES:** November 10, 2020 and November 19, 2020

Mr. McParland made the motion to approve the minutes from November 10, 2020 and November 19, 2020, seconded by Mr. Chadwick, unanimously so voted (7-0-0).

**ADVISORY OPINIONS:** Zoning Board of Appeals & Historic District Historical Commission  
No Comments.

**PB2019-19 Freeman Ellis- Endorsement of Covenant Agreement and Definitive Subdivision.**

The Planning Board approved the definitive subdivision plan for PB2019-19 Gary Darman, Trustee of the Freeman Ellis Family Realty Trust on July 30, 2019. This was a 2 lot, 1 parcel subdivision off Route 39 near Thompson's Field. The 20-day appeal period expired log ago and the decision was recorded at the Barnstable County Registry of Deeds. The surveyor, Thadd Eldredge, is now seeking endorsement of the definitive subdivision and the Planning Board Covenant Agreement. All the required changes have been made to the plan, per the decision letter. Some of you may be questioning the delay in time to have this plan and covenant endorsed. There is no timeline requirement for when a plan is approved and then endorsed. There have been no changes in zoning or the subdivision rules and regulations which would make or require changes to the plan. Staff recommends endorsement of both documents; which will require that Board Members come to Town Hall to sign. Elaine Banta, Planning Assistant will coordinate this with the Board. A reminder, only the regular members of the Board can act on this request, Mr. Rouse as an alternate is not eligible.

Mr. McParland made the motion to approve endorsement of the Definitive Plan and Planning Board Covenant Agreement for case PB2019-19 Gary Darman, Trustee of the Freeman Ellis Family Realty Trust, seconded by Ms. Maslowski, unanimously so voted via roll call (6-0-0).

**BRIEFINGS AND REPORTS BY BOARD MEMBERS:** None.

**ADJOURNMENT:**

Mr. McParland made the motion to adjourn at 7:10 PM, seconded by Mr. Stoltz, unanimously so voted via roll call (6-0-0).

Respectfully Submitted,  
Kathleen A. O'Neill

Adopted: December 17, 2020