

**HARWICH PLANNING BOARD  
HARWICH TOWN HALL - 732 MAIN STREET- GRIFFIN ROOM  
TUESDAY, FEBRUARY 11, 2020 – 6:30 PM  
MEETING MINUTES**

**BOARD MEMBERS PRESENT:** Chairman Joseph McParland; Mary Maslowski; Craig Chadwick; and Arthur Rouse. David Harris was present via remote participation.

**BOARD MEMBERS ABSENT:** Vice-Chairman Alan Peterson; Duncan Berry; and William Stoltz.

**OTHERS PRESENT:** Town Planner, Charleen Greenhalgh; Cyndi Williams; Andrew Signer; Chris Henry; Bill Crowell; Joe Della Morte; Walter Mason; Peter Hurst; James Horgan; Joe Young; Michael Jacek; and others.

**CALL TO ORDER** - 6:30 PM by Mr. McParland with a quorum present.

Chairman McParland 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 this open session is required to inform the chair.

Chris Henry announced he will be audio recording.

**PB2019-45 Royal Apartments LLC, Multi-Family Use Special Permits and Site Plan Review Special Permit, 328 Bank Street**

Chairman McParland re-opened the hearing at 6:31 PM. Applicant seeks approval of a Multi-Family Use Special Permits in the Harwich Center Overlay District and a Site Plan Review Special Permit for the proposed use and additional parking and other appurtenances pursuant to the Code of the Town of Harwich §§325-51.D and -51.O and 325-55. The property is located at 328 Bank Street, Map 41, Parcel N4 in the M-R-L, Harwich Center Overlay and Historic Districts. Hearing continued from January 28, 2020. The applicant has requested a further continuance to March 10, 2020.

Ms. Maslowski made the motion to continue the hearing to March 10, 2020 no earlier than 6:30 PM, seconded by Mr. Chadwick, unanimously so voted via roll call (5-0-0).

**PB2020-01 Donna Smith, Site Plan Review Special Permit and a Use Special Permit with Waivers, 296 Route 28**

Ms. Maslowski recused herself from the hearing.

Chairman McParland opened the hearing at 6:32 PM by reading the legal notice into the record. Applicants seek approval of a Site Plan Review Special Permit and a Use Special Permit with waivers pursuant to the Code of Town of Harwich §§325-13, ¶IV Line 30 & 32A, -14.O, -55, -51 and -107 to renovate and expand the existing recreational use via a 4-station mobile bungee trampoline, construct and operate a new snack shack with Fast Food / Take Out and expand and improve the parking and vehicle access. The property is located at 296 Route 28, Map 12, Parcel H1, in the C-H-1 and R-R zoning districts and the A-E Special Flood Hazard Area overlay.

Mrs. Greenhalgh read an email request of continuance from the applicant into the record. Mr. Chadwick made the motion to continue the hearing to March 10, 2020 no earlier than 6:30 PM, seconded by Chairman McParland, unanimously so voted via rollcall (4-0-0).

**PB2020-02 Steve Gopoyan & Swavi Osev, Site Plan Review Special Permit and a Use Special Permit with Waivers, 346 Route 28 and 0 Sisson Road**

Ms. Maslowski recused herself from the hearing.

Chairman McParland opened the hearing at 6:34 PM by reading the legal notice into the record. Emulous E Hall, et als., as owners, seeks approval of a Site Plan Review Special Permit and a Use Special Permit with waivers, pursuant to the Code of Town of Harwich §§325-13, ¶IV Line 30, -55 and -51 to construct a miniature golf course and expand and improve the parking and vehicle access. The property is located at 346 Route 28 and 0 Sisson Road, Maps 21, Parcels N1 & N2, respectively, in the C-H-1 and R-M zoning districts.

Mrs. Greenhalgh stated that the applicant has requested a continuance to March 10, 2020. Mr. Chadwick made the motion to continue the hearing to March 10, 2020 no earlier than 6:30 PM, seconded by Chairman McParland, unanimously so voted via rollcall (4-0-0).

Ms. Maslowski returned to the Board at this time.

**PB2019-47 525 Camelot LLC, Modification of a Site Plan Review Special Permit and a Restaurant Use Special Permit, 557 Route 28**

***Representative:*** Andrew Singer and Chris Henry

Chairman McParland re-opened the hearing at 6:36 PM. Applicant seeks approval of a Modification of a Site Plan Review Special Permit (PB2016-20 & 17-13) and a Restaurant / Fast Food Takeout Use Special Permit pursuant to the Code of the Town Harwich §§325-9, -14.O, -51 and 55. The use will be in association with a retail use and 24 seats (including 5 outdoor seats) are proposed. The property is located at 557 Route 28 (aka Harwich Port Commons), Map 14 Parcel V9 in the C-V and RH-1 zoning districts. Continue from January 28, 2020.

Andrew Singer began the hearing by explaining that they submitted revised plans with minor changes, such as floor plan labeling. The outside seats corrected the location of the tables, and added one outside seat for 6 outside and 18 inside. The plans stayed the same other than that. The deli use is technically considered fast food take out, and therefore requires the restaurant use special permit, and an amended site plan is needed for the outside seats. Since the last meeting, they have had meetings with the abutters, and are happy to report that all parties are in agreement moving forward. A private resolution is being made, and they will continue to work together on the matter.

Mrs. Greenhalgh provided Planning Staff Comments 1. A revised floor plan, dated 2-3-20, was submitted showing a slight change to the outdoor seating. The seating was moved and reconfigured for one additional seat, for a total of 6 outdoor seats. 2. Additionally, the revised plan also shows the relabeling of the some interior spaces. "Wine/Beer/Cheese" is now

“Dairy/Beverages/Cold Storage”; “Ref/Freezer” is now “Produce/Dairy”; the “Checkout Counter” has been relocated to the rear of the store; and the “Ice Cream Counter” label has been removed; and the indoor seating has been reduced by one seat. The total number of seats, inside and out, remains at 24. 3. The application before the Planning Board is for a minor change to the Site Plan and for a Use Special Permit relative to the Restaurant, Fast Food/Take out. The proposed retail market is an allowable use by right and requires no approvals from the Planning Board. 4. The proposed use is allowable in the C-V zoning district through the special permit process. 5. The commercial use is restricted to the C-V zoning district. No significant changes are proposed for the site plan; however a condition to the total number of outdoor seats is recommended, as is a condition that the outdoor seats not restrict sidewalk use or impede accessibility. 7. The parking as provided as adequate for the proposed uses. 8. Standard conditions are recommended. 9. Any signage will require a Sign Permit from the Building Department.

Mr. Chadwick asked about outdoor seating locations with regards to sidewalk placement. Mr. Singer stated that this is not a regular sit down restaurant, it is just a brief take out. They would consider location, but it has not been discussed with the Town.

William Crowell, who is representing Joe Della Morte and Bernadette and Richard Waystack, thanked the Board and the Chairman for continuing the case originally. They have negotiated and worked this out. Both of his clients are in support of this application, and they have no objections.

Mr. Della Morte, cranberry liquors owner, stated that it was an intense few days of negotiating, but they have come to a reasonable, workable, solution with respect to alcohol sales. He looks forward to working cooperative for a mutually beneficial business for the town of Harwich.

Walter Mason, Miles Street, stated that this is a great project for the town. The applicant has put a lot of money into this building, it will be a low margin business, but the retail aspect is really needed for it to be economical. Please support the application.

Peter Hurst, Kite Shop owner, questioned what was proposed. It was explained and shown on the plan. He suggested that they have a place to get coffee or a muffin, like Buckie’s biscotti. A nice coffee shop would be a no-brainer. It would be conducive to what is already proposed. People need a place to sit.

James Horgan, 1 Belmont Road, stated that what is happening in Harwich is tremendous. The new building is a centerpiece of Harwich port. Seeing that full and vibrate area would be a huge asset. This would be a great thing for everyone. He commends the planning board and the chamber of commerce, and everyone who has done so much to rejuvenate the area.

Joe Young, 611 Route 28, stated that his family and friends are all for this market. This is what Harwich port needs. This is something Harwich port has been missing. This is a great thing. Please allow this to happen. The revitalization is great for everyone all around financially, real estate values will go up.

Cyndi Williams, Harwich Chamber Director, reminds everyone what we do have already in Harwich port for many years. She is glad new business is coming, and glad it will be compliment what we have existing. The Mason Jar is an existing deli, and this project with a butcher shop and Seafood counter would be a compliment.

Andrew Singer pointed out that there is a coffee corner, butcher shop, and seafood counter proposed. Ms. Williams asked if it will be year round. It was responded yes.

Mr. Henry stated that they do not have an operator at the moment, but will hopefully be having a Seafood Counter, Coffee Counter, Butcher with light grab and go sandwiches, dry goods, and other businesses that are in Harwich port.

Chairman McParland read letters of support into the record from Susan Battles, Megan Yaps, and Neil Cronin.

Mr. Chadwick raised the concern with the outdoor tables and lack of barrier based on Planning Board previous applications, and clarified who would have the authority if alcohol will be consumed outside. Chairman McParland responded that the licensing authority would be responsible.

Ms. Maslowski stated she believes it would be part of the site plan, regardless of whether alcohol is being served or not.

Mr. Harris stated that there are hundreds of these restaurants in Washington DC some have barriers, some do not. There is no requirement. He sees no need for it.

Mr. Singer stated that there is a proposed condition that the outside seating will not impede traffic. If it became an issue, that is the condition that would trigger revisiting the site plan review. If there was a desire to have a pouring license, the selectmen would require a barrier for control. The condition should address that.

A lengthy discussion ensued. After which, Ms. Maslowski made the motion to close the public hearing at 7:09 PM seconded by Mr. Chadwick, unanimously so voted via roll call.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to adopt the following:

1. Said parcel for the proposed use is primarily in the C-V Zoning District and the Village Commercial Overlay District. A small portion of the rear of the parcel is in the RH-1 zoning district.
2. The Restaurant, Fast Food/Take-out Use will be in conjunction with the Retail Market.
3. The Restaurant, Fast Food/Take-out Use is a 'permitted use' by the Planning Board as the Special Permit Granting Authority in the C-V zoning district.
4. The proposed use will not adversely impact traffic flow and safety.
5. The proposed use will be compatible with surrounding land uses.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to approve with conditions the Use Special Permit for PB2019-47 525 Camelot, LLC, for a Restaurant, Fast Food/Takeout pursuant to the Code of the Town Harwich §§325 9, -14.O, and -51, in association with a retail use, with 24 seats (including 6 outdoor seats) for property located at 557 Route 28 (aka Harwich Port Commons), Map 14 Parcel V9 in the C-V and RH-1 zoning districts. The decision is based on the above findings and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich with the following conditions:

1. The total number of seats shall not exceed twenty-four (24).
2. No more than six (6) outdoor seats are allowable at the Route 28 street side of the building and said seat shall not restrict sidewalk use or impede accessibility.
3. All signage is subject to all Town of Harwich Code regulations and specifically Article VII.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to adopt the following:

1. The parcel is primarily in the C-V Zoning District and the Village Commercial Overlay District. A small portion of the rear of the parcel is in the RH-1 zoning district.
2. The Site Plan was scrutinized during the previous reviews pursuant to PB2016-20 and PB2017-13.
3. No significant changes are proposed from the previously approved site plans.
4. The only change to the site plan is the inclusion of six (6) outdoor seats at the front of the building.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to approve with conditions case number PB2019-47 525 Camelot, LLC for a Modification of a Site Plan Review Special Permit (PB2016-20 & PB2017-13) pursuant to the Code of the Town Harwich §325-55 for a retail use and a 24 seat (including 6 outdoor seats) Restaurant, Fast Food/Take-Out for the property located at 557 Route 28 (aka Harwich Port Commons), Map 14 Parcel V9 in the C-V and RH-1 zoning districts. The decision is based on the aforementioned findings of fact, the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and the fact that the retail use is permitted in the zoning district and the Restaurant, Fast Food/Take Out Use Special Permit has been approved. The following conditions are imposed:

1. The total number of seats shall not exceed twenty-four (24).
2. No more than six (6) outdoor seats are allowable at the street side of the building without review and approval by the Planning Board.
3. Said outdoor seating shall not restrict sidewalk use or impede accessibility.
4. All previous condition imposed by the Planning Board, pursuant to PB2016-20 and PB2017-13 shall be adhered to.
5. Signage shall comply with the requirements of the Code of the Town of Harwich and the Building Department.
6. This decision shall be recorded at the Barnstable Registry of Deeds.
7. Conformance with all review procedure requirements outlined pursuant to §400-18.G Inspection, certificate of completion and as-built plan, of the Code of the Town of Harwich shall be met.

**PB2019-48 554 Street Bar LLC, Modification - Site Plan Review Special Permit 554 Route 28**

***Repetitive:*** Michael Jacek

Chairman McParland opened the hearing at 7:17 PM by reading the legal notice into the record. HP Property Investment LLC, as owner, seeks approval of a Modification of a Site Plan Review Special Permit (PB2019-09) to add to and reconfigure the outdoor seating at the front of the building which includes an exterior bar takeout window. The property is located at 554 Route 28, Map 14, Parcel T7 in the C-V and R-M zoning districts. The application is pursuant to the Code of the Town of Harwich §325-55.

Michael Jacek explained that he is seeking approval to expand from 40 seats to 71 seats. A lengthy discussion ensued on planter barrier locations.

Mrs. Greenhalgh provided departmental comments: Health: Prior to use of the additional seating, a septic system installer must apply for a permit to install an additional exterior grease collection tank. With the addition of this tank, the property will be able to accommodate the proposed 71 seats (14 full service seats inside 10 Yen, 34 outdoor seats and 23 interior seats utilizing disposable tableware at the newly named 3 Monkeys. Plan review of the interior including the kitchen and bar is required prior to the issuance of Health Department Food Service permits, however this should not interfere with the Planning Board approval process. Fire: No concerns. Great plan. Police Department: No concerns. Planning Staff Comments A. The proposed outdoor seating is located entirely on the subject property. B. There is no change in the required number of parking spaces, as a retail space is being eliminated. C. General Conditions, including a reference to prior conditions relative to PB2013-14 and PB2019-09, shall continue to be adhered to. D. Board of Health conditions are recommended as part of the conditions of approval. E. The request before the Board appears to be appropriate.

Joe Young, 611 Route 28, stated what Michael and his business partners are doing is great. We always need more outdoor seating. This is a great application. His family is for it, and it is a great opportunity with Harwich port.

Walter Mason, Miles Street, stated that they run a great establishment, they have great employees, this is a growing revenue for the town, they make a great product, they have dressed up the building nicely, and completely improved the look of the building. This creates a walking Town. This a huge improvement. They do a great job, and constantly looking for ways to improve.

Cyndi Williams thanked Mike, Tony, and Mike, for adding to the charm of Harwich port, it is becoming a destination. Please support what they are doing.

Jim Horgan, 1 Belmont Road, been to Ten Yen many times with his daughter. Mike is the consummate professional, and his staff is above and beyond. They are doing a great job, this will be an asset to Harwich port.

Ms. Maslowski made the motion to close the public hearing at 7:30 PM, seconded by Mr. Chadwick, unanimously so voted via roll call (5-0-0).

On a motion by Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to adopt the following findings of fact:

1. The property is located within the C-V, V-C Overlay and R-M zoning districts.
2. The proposed outdoor patio is located entirely within the C-V and V-C Overlay districts.
3. The site has changed little, except for the outdoor patio seating, since approvals were received for the site in 2013 and 2019.
4. No nuisance or hazards relative to pedestrian or vehicular travel will be created.

On a motion by Ms. Maslowski, seconded by Mr. Chadwick, the Board voted unanimously by rollcall vote (5-0-0) to approve with conditions case number PB2019-48 554 Street Bar LLC, c/o Michael Jacek, as applicant/tenant, HP Property Investment LLC, as owner, a Modification of a Site Plan Review Special Permit (PB2019-09) to add to and reconfigure the outdoor seating at the front of the building which includes an exterior bar takeout window for property located at 554 Route 28, Map 14, Parcel T7 in the C-V and R-M zoning districts pursuant to the Code of the Town of Harwich §325-55. The decision is based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich and following conditions:

1. Prior to use of the additional seating, a septic system installer must apply for a permit to install an additional exterior grease collection tank.
2. All prior conditions pursuant to PB2013-14 and PB2019-09 shall continue to be adhered to.
3. This decision shall be recorded at the Barnstable Registry of Deeds prior to the issuance of a building permit.
4. Conformance with all review procedure requirements outlined pursuant to §400-18.G Inspection, certificate of completion and as-built plan, of the Code of the Town of Harwich shall be met.

**NEW BUSINESS:** none.

**OLD BUSINESS:** none.

**BRIEFINGS AND REPORTS BY BOARD MEMBERS:**

Ms. Maslowski updated the Board on the CPC applications.

Mrs. Greenhalgh stated that there will be public hearing February 25 on the zoning amendments for Essential Services, and another on March 10 for the Industrial Zone.

**ADJOURNMENT** - Ms. Maslowski made the motion to adjourn at 7:36 PM, seconded by Chairman McParland, unanimously so voted via rollcall (5-0-0).

Respectfully submitted,

Kathleen A. Tenaglia, Board Secretary

Adopted: February 25, 2020