

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET- GRIFFIN ROOM
TUESDAY, FEBRUARY 25, 2020 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chairman Joseph McParland; Vice-Chairman Alan Peterson; Mary Maslowski; William Stoltz; Craig Chadwick; Duncan Berry; and Arthur Rouse. David Harris was present via remote participation.

BOARD MEMBERS ABSENT: None.

OTHERS PRESENT: Town Planner, Charleen Greenhalgh; Andrew Signer; David Michniewicz; Mike Sharlet; Bill Ganshirt; George Gakidis; David Hawk; Bob Nickerson; Peter Sullivan; Lucy Steere; Andrew Barrett; Philip Scholomiti; Christian Davenport; Dan Croteau; Bill Crowell; Mark Smith; Bruce Young;

CALL TO ORDER - 6:31 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.

PB2019-27 Wychmere Harbor Real Estate LLC, 23 Snow Inn Road, Site Plan Review Special Permit

Representatives: Andrew Signer, David Michniewicz, Mike Sharlet, Bill Ganshirt, George Gakidis, and David Hawk

Chairman McParland re-opened the hearing at 6:32 PM. Applicant seeks to amend a Site Plan Review Special Permit granted in Case PB2010-26 by making improvements to the existing beach club; including replacing the existing restaurant/pool equipment building, two swimming pools, the pool decking and other site improvements with a new restaurant building, a small restroom and retail building, a pavilion expansion, two smaller swimming pools and a new concrete pool deck, and various beach amenities. The applicant is pursuant to the Code of the Town of Harwich §325-55 (Site Plan Review), §325-51 (structure greater than 7500 s.f.) and Chapter 400. The property is located in the RH-3 and R-L zoning districts at 23 Snow Inn Road, Map 8, Parcel P2- 12. Hearing continued from January 28, 2020.

Mr. Singer and Mr. Gakidis reviewed the information the Board requested at the last meeting, including a revised landscape plan and elevation plans.

Mr. Singer read a one page project benefits list into the record:

- No change or intensification in existing, private, member-based club use.
- No change or increase in congestion in public ways and no decrease in traffic safety.
- No change in currently permitted, commercial occupancy of property (Maximum 650 restaurant seats shared among multiple buildings and function areas)
- Modernize outdated facility to improve efficiency and aesthetics and enhance private guest experience.

- Compliance with all dimensional requirements of the Harwich Zoning Bylaws
- Conforming Building Coverage (11.4% Proposed)
- Reduction in Pre-existing nonconforming amenities coverage (29.9%- 28.5%)
- Increased green space (total 397,424 Sq. Ft.)
- Conforming building height all structures at beach club.
- Replacement beach grill building elevated to eliminate pre-existing nonconforming location in flood plain.
- Unanimous board of appeals and conservation commission approval of the redevelopment.

Mr. Singer stated that the height is conforming, 50 feet is allowed and this is significantly less than that. The residential building on the east side, is approximately 50' tall. This building at the peak, is less than 50'. This will be well under what is allowed by zoning.

Mr. Gakidis explained the structure and the site. He showed renderings of the proposed building in the location, and displayed pictures of the existing site to show what the proposal will look like. The renderings showed the existing compared to the proposed. The building is well conforming and smaller than a number of buildings on the property.

Mr. Stoltz asked how the grades of the building height will be taken. It was responded that the 50' mark is from grade.

Ms. Maslowski asked what the base flood elevation is. It was responded 12'. It was stated that the height allowed would be 12' + 50' which equals 62'.

Mr. Chadwick asked if there was a restriction in terms of the flood base adjustment. Mrs. Greenhalgh explained that this board passed a by-law at the May 2019 Annual Town Meeting relative to heights of buildings in the flood plain. The building commissioner make the final determination.

Mr. Stoltz asked several questions on L.1.0. - The landscape plan, all which were answered by the applicants.

Mrs. Greenhalgh read recommendations to the board. The Town Engineer is awaiting additional information regarding the stormwater drainage. Originally the applicants proposed to use artificial turf in an around the pool area; this is no longer proposed. The Conservation Commission did approve the portion of this project that falls within its jurisdiction. Zoning Board of Appeals approved the Special Permit on January 29, 2020. A copy of that decision is attached. At the January 28th meeting, several questions were raised about the height of the Beach Club Building. The new sheet A2.0 dated 2/10/2020 by GS Design Group Inc., shows the heights of the proposed building. The maximum height limitation is 50' per the zoning code; the highest point of the proposed building, the cupola, is 44.7 feet. No height dimensions for the Pavilion have been provided. Two additional letters has been received, copies attached. Standard conditions are recommended; including a stormwater drainage review requirement.

Bob Nickerson discussed a letter of opposition he wrote, and a copy of the letter was added to the record. A lengthy discussion ensued.

Peter Sullivan, 16 Colonial Way, asked if a wind study had been done. The channel is difficult to sail out of now as it is. There is going to be a great amount of blockage. Is there any noise restrictions being placed? A roof deck of that size will be very loud. Encourages the committee to put on some restrictions.

Lucy Steere, 59 Snow Inn Road, stated her biggest concern is the diminishment of wind in the channel. Since 1951, there was always tall buildings on the property that have changed over the years. When Dr. Fennell owned the property, there was a crow's nest put on top of the clam bar. That blocked a significant amount of wind coming in the channel. With the additional building, a scientific study is needed of what the daily knots in the channel will do over time. The wind has changed to 0 in a day. Very concerned with the scientific impact with the entire community. Over time could become very unpleasant for the whole town. What is the wind in the channel going to do over time?

Chairman McParland is not sure that the description of this project relates to the channel. They can agree to disagree.

Mrs. Greenhalgh reminded everyone that entertainment falls strictly under Board of Selectmen.

Andrew Barrett, 112 Miles Street, reiterated existing concerns. He suggests a wind study be conducted. Wind has many different impacts. This project diminishes views, as well as the South West wind coming in. This effects not only recreation use, but also has ecological implications.

Chairman McParland read into the record letters of support from Jeanne and Vin Helfrich, Greg Manocherian, and James Ahern, and letters of opposition from Tom & Lonnie Cosmer and Martha & Paul Chrestensen.

Mr. Berry made comments on the design plan. It seems to fit in with the stylistic tradition and history of the property. The size and height of Chatham Bars Inn is probably four times larger, and build 106 years ago. The Belmont (hotel) was 6 stories tall, and this was not considered a monstrosity until it was torn down. The fact that the team has chosen to stay within the local parameters is a consideration. The wind is an interesting case, but the large building is more than 120' off the water. If this was an urban area, it would only be dozens of feet, not hundreds.

A lengthy discussion ensued.

Mr. Chadwick made the motion to close the public hearing at 7:33 PM, seconded by Mr. Berry. The roll call vote to close the public hearing was unanimous. It was noted that Mr. Berry was not at the last meeting where this matter was discussed and therefore would not be eligible to vote on the matter. Mr. Rouse, as alternate would be voting on this matter.

On a motion from Ms. Maslowski, seconded by Mr. Peterson, the Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings of fact:

1. The property is located within the RH-3 and R-L zoning districts.
2. The proposed changes of use and alterations to the site were approved by the Zoning Board of Appeals pursuant to Board of Appeals Case #2019-28.
3. The Conservation Commission approved the changes within conservation jurisdiction pursuant to MA DEP SE32-2383 and SE32-2387.
4. The height of the proposed Beach Grill and the Coastal Bar are within the height limitations of the Zoning Code.
5. Building coverage limitations have not been exceeded; 15% is allowable and 11.4% is proposed, which represents an increase from 10.2% building coverage.
6. Amenity and site coverages have decreased slightly.
7. Green space coverages have increased slightly.
8. The use as developed will not adversely affect the neighborhood.
9. The specific site is an appropriate location for such a use, structure or condition.
10. There will be no nuisance or serious hazard to vehicles or pedestrians.
11. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

On a motion from Ms. Maslowski, seconded by Mr. Peterson, the Board voted unanimously (7-0-0) by rollcall vote to approve case number case PB2019-27 Wychmere Harbor Real Estate LLC, to amend a Site Plan Review Special Permit granted in Case PB2010-26 pursuant to the Code of the Town of Harwich §325-51 (structure greater than 7500 s.f.) and Chapter 400 for property located in the RH-3 and R-L zoning districts at 23 Snow Inn Road, Map 8, Parcel P2-12. The decision is based on the aforementioned finds of fact and the fact that the application meets all the necessary requirements for the granting of the Special Permit.

On an amended motion from Ms. Maslowski, seconded by Mr. Peterson, the Board voted unanimously (7-0-0) by rollcall vote to approve with conditions case number PB2019-27 Wychmere Harbor Real Estate LLC, to amend pursuant to the Code of the Town of Harwich §325-55 (Site Plan Review) and Chapter 400 a Site Plan Review Special Permit previously granted under PB2010-26 to allow for improvements to the existing beach club; including replacing the existing restaurant/pool equipment building, two swimming pools, the pool decking and other site improvements with a new restaurant building, a small restroom and retail building, a pavilion expansion, two smaller swimming pools and a new concrete pool deck, and various beach amenities for the property located in the RH-3 and R-L zoning districts at 23 Snow Inn Road, Map 8, Parcel P2. 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:

- A. All Zoning Board of Appeals and Conservation Commission requirements shall be met.
- B. The proposed restaurant will require a new food service permit through the Health Department; and shall include the review of the floor plans and finishes which shall be required prior to approval of a building permit application. Full compliance with the 2013 Federal Food Code is required.
- C. The new swimming pools fall under the jurisdiction of the Health Department and shall require a full plan review through both Health and Building Departments; which shall also include full compliance with 105 CMR 435.00: Minimum Standards for Swimming Pools, the State Sanitary Code Chapter V.
- D. All signage shall comply with the Sign Code and Building Department Requirements.

- E. All lighting shall comply with the Lighting Code Requirements.
- F. All drainage and storm water requirements, local, state and federal, shall be met and approved by the Harwich Town Engineer prior to the commencement of construction operations.
- G. This decision shall be recorded at the Barnstable Registry of Deeds.
- H. 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.

PB2020-03 Davenport Companies, 2 Celebration Way, Use Special Permit with Waivers
Representatives: Philip O. Scholomiti, PLS and Christian Davenport

Chairman McParland opened the hearing at 7:41 PM by reading the legal notice into the record. Estate of James G. Marceline, as owner(s) seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 2 Celebration Way, Map 81, Parcel C1-1 in the R-L District.

Mr. Scholomiti explained the proposed project to construct a two-family dwellings. The property is located in R-R zone, and a 4 lot subdivision was recently approved by the Board. The additional requirements met are as follows; 40,000 sq. ft. lot size minimum is met, floor area units exceed 800 sq. ft., units are connected with a roof, each unit contains 2 off street parking spaces, a compliant title 5 septic system will serve the dwellings. The EIR was withdrawn without prejudice. They are requesting a waiver requiring an affidavit by the owners stating that they will live in a unit. All the units will be rented on a year round basis. The proposed dwelling is an appropriate use, and is not detrimental to the neighborhood.

Mrs. Greenhalgh read departmental input and the Town Planners report into the record. Health: This 4 lot subdivision was approved by the Board of Health during their regularly scheduled August 2019 meeting. The approval was conditioned on the submittal a favorable Environmental Impact Report (EIR). As originally designed for 32 bedrooms, the EIR was not approved as presented. This EIR was withdrawn without prejudice with the understanding that the subdivision would support no more than 18 bedrooms in total in order to be below the 2,000 gallon per day threshold for EIR requirements. The plans submitted for the Planning Board review indicate 18 bedrooms in total as follows: 10 Celebration Way: 6 bedrooms (two-3 bedroom units) 2 Celebration Way: 4 bedrooms (two-2 bedroom units) 6 Celebration Way: 4 bedrooms (two-2 bedroom units) 14 Celebration Way: 4 bedrooms (two-2 bedroom units) This allocation of bedrooms remains under the 2,000 gallon per day threshold and is acceptable to the Health Department. All properties will require compliant Title 5 septic systems and recorded deed restrictions reflecting the maximum number of bedrooms permitted. Engineering: See Planning Staff Comments below. Fire, Police and Highway: No concerns. Conservation: Not in Conservation jurisdiction – No concerns.

Planning Staff Comments: 1. The Town Engineer and Town Planner reviewed the plans and application on February 7, 2020. Based on that review the following conditions are recommended: a. All stormwater runoff generated with the subject property shall be controlled and infiltrated on the subject property; up to and including the 100 year storm event. b. No commencement of site work shall be conducted until stormwater design is reviewed and

approved by the Town Engineer. c. Said lot must be released from the Planning Board Covenant, Barnstable County Registry of Deeds Book 32590, Page 128, before any site work can commence. 2. Pursuant to §325-51.N the requirements/criteria for issuing a special permit are as follows: a. The lot area shall contain a minimum of 40,000 square feet of continuous upland in all applicable zoning districts. The lot size is 44,833 s.f. b. The floor area for each dwelling unit shall be a minimum of 800 square feet. The floor area for each unit contains ~1,090 sq. ft. c. A common roof or a series of roofs shall connect the dwelling units. A common roof existing for the two units d. There shall be a minimum of two off street parking spaces per each unit. Two off street parking spaces per unit are proposed. 3. There is a strong need for rental units within the Town of Harwich. 4. The requested waivers are reasonable. 5. Standard conditions are recommended.

Board members asked several questions, all which were answered by the applicant.

Ms. Maslowski made the motion to close the public hearing at 7:50 PM, seconded by Mr. Berry, unanimously so voted via roll call.

On a motion from Ms. Maslowski and seconded by Mr. Berry the Planning Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings:

1. The lot contains the minimum requirement of 40,000 SF of upland.
2. Each dwelling unit's floor area is greater than the 800 SF minimum requirements.
3. A common roof connects the dwelling units.
4. The parcels provide sufficient access for two parking spaces for each unit.
5. The use as developed will not adversely affect the neighborhood.
6. The specific site is an appropriate location for such a use, structure or condition.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski and seconded by Mr. Peterson the Planning Board voted unanimously (7-0-0) by rollcall vote to approve the waiver from Article II, Section 400-17 A(1)(a) requiring a signed and notarized affidavit by the owner stating that he or she will live in one of the units on a year-round basis.

On a motion from Ms. Maslowski and seconded by Mr. Peterson, the Board voted unanimously (7-0-0) by rollcall vote to approve with conditions a Use Special Permit with waivers for PB2020-03 Davenport Companies, applicant and prospective buyer, Estate of James G. Marceline, as owner, a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §325-13.A, §325-51 and §325-51.N for the property located at 2 Celebration Way, Map 81, Parcel C1-1 in the R-L District, based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval; with the following conditions:

1. Each unit shall have no more than two (2) bedrooms, per the Board of Health.
2. All stormwater runoff generated within the subject property shall be controlled and infiltrated on the subject property; up to and including the 100 year storm event.
3. No commencement of site work shall be conducted until stormwater design is reviewed and approved by the Town Engineer.
4. Said lot must be released from the Planning Board Covenant, recorded at the Barnstable County Registry of Deeds Book 32590, Page 128, before any site work can commence.
5. The Special Permit decision shall be recorded at the Barnstable County Registry of Deeds.

6. Any changes to the plan shall be subject to further Planning Board review

PB2020-04 Davenport Companies, 6 Celebration Way, Use Special Permit with Waivers

Representative: Philip O. Scholomiti, PLS

Chairman McParland opened the hearing at 7:56 PM by reading the legal notice into the record. Estate of James G. Marceline, as owner(s) seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 6 Celebration Way, Map 81, Parcel C1-2 in the R-L District.

Mr. Scholomiti explained the proposed project to construct a two-family dwellings. The property is located in R-R zone, and a 4 lot subdivision was recently approved by the Board. The additional requirements met are as follows; 40,000 sq. ft. lot size minimum is met, floor area units exceed 800 sq. ft., units are connected with a roof, each unit contains 2 off street parking spaces, a compliant title 5 septic system will serve the dwellings. They are requesting a waiver requiring an affidavit by the owners stating that they will live in a unit. All the units will be rented on a year round basis. The proposed dwelling is an appropriate use, and is not detrimental to the neighborhood.

Ms. Maslowski made the motion to close the public hearing at 7:59 PM, seconded by Mr. Peterson, unanimously so voted via roll call.

On a motion from Ms. Maslowski and seconded by Mr. Peterson the Planning Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings:

1. The lot contains the minimum requirement of 40,000 SF of upland.
2. Each dwelling unit's floor area is greater than the 800 SF minimum requirements.
3. A common roof connects the dwelling units.
4. The parcels provide sufficient access for two parking spaces for each unit.
5. The use as developed will not adversely affect the neighborhood.
6. The specific site is an appropriate location for such a use, structure or condition.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski and seconded by Mr. Berry, the Planning Board voted unanimously (7-0-0) by rollcall to approve the waiver from Article II, Section 400-17 A(1)(a) requiring a signed and notarized affidavit by the owner stating that he or she will live in one of the units on a year-round basis.

On a motion by Ms. Maslowski and seconded by Mr. Berry, the Planning Board voted unanimously (7-0-0) by rollcall vote to approve with conditions a Use Special Permit with waivers for PB2020-04 Davenport Companies, applicant and prospective buyer, Estate of James G. Marceline, as owner, a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §325-13.A, §325-51 and §325-51.N for the property located at 6 Celebration Way, Map 81, Parcel C1-2 in the R-L District, based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval; with the following conditions:

1. Each unit shall have no more than two (2) bedrooms, per the Board of Health.

2. All stormwater runoff generated with the subject property shall be controlled and infiltrated on the subject property; up to and including the 100 year storm event.
3. No commencement of site work shall be conducted until stormwater design is reviewed and approved by the Town Engineer.
4. Said lot must be released from the Planning Board Covenant, recorded at the Barnstable County Registry of Deeds Book 32590, Page 128, before any site work can commence.
5. The Special Permit decision shall be recorded at the Barnstable County Registry of Deeds.
6. Any changes to the plan shall be subject to further Planning Board review.

PB2020-05 Davenport Companies, 14 Celebration Way, Use Special Permit with Waivers

Representative: Philip O. Scholomiti, PLS

Chairman McParland opened the hearing at 8:02 PM by reading the legal notice into the record. Estate of James G. Marceline, as owner(s) seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 14 Celebration Way, Map 81, Parcel C1-4 in the R-L District.

Mr. Scholomiti explained the proposed project to construct a two-family dwellings. The property is located in R-R zone, and a 4 lot subdivision was recently approved by the Board. The additional requirements met are as follows; 40,000 sq. ft. lot size minimum is met, floor area units exceed 800 sq. ft., units are connected with a roof, each unit contains 2 off street parking spaces, a compliant title 5 septic system will serve the dwellings. They are requesting a waiver requiring an affidavit by the owners stating that they will live in a unit. All the units will be rented on a year round basis. The proposed dwelling is an appropriate use, and is not detrimental to the neighborhood.

Mr. Berry asked about the parking shape. It was responded that it conforms to the code.

Ms. Maslowski made to the motion to close the public hearing at 8:04 PM, seconded by Mr. Peterson, unanimously so voted via roll call.

On a motion from Ms. Maslowski and seconded by Mr. Peterson, the Planning Board voted unanimously (7-0-0) the Planning Board voted unanimously to adopt the following findings:

1. The lot contains the minimum requirement of 40,000 SF of upland.
2. Each dwelling unit's floor area is greater than the 800 SF minimum requirements.
3. A common roof connects the dwelling units.
4. The parcels provide sufficient access for two spaces for each unit.
5. The use as developed will not adversely affect the neighborhood.
6. The specific site is an appropriate location for such a use, structure or condition.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski and seconded by Mr. Berry, the Planning Board voted unanimously (7-0-0) to approve the waiver from Article II, Section 400-17 A(1)(a) requiring a signed and notarized affidavit by the owner stating that he or she will live in one of the units on a year-round basis.

On a motion by Ms. Maslowski and seconded by Mr. Peterson, the Planning Board voted unanimously (7-0-0) to approve with conditions a Use Special Permit with waivers for PB2020-05 Davenport Companies, applicant and prospective buyer, Estate of James G. Marceline, as owner, a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §325-13.A, §325-51 and §325-51.N for the property located at 14 Celebration Way, Map 81, Parcel C1-4 in the R-L District, based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval; with the following conditions:

1. Each unit shall have no more than two (2) bedrooms, per the Board of Health.
2. All stormwater runoff generated within the subject property shall be controlled and infiltrated on the subject property; up to and including the 100 year storm event.
3. No commencement of site work shall be conducted until stormwater design is reviewed and approved by the Town Engineer.
4. Said lot must be released from the Planning Board Covenant, recorded at the Barnstable County Registry of Deeds Book 32590, Page 128, before any site work can commence.
5. The Special Permit decision shall be recorded at the Barnstable County Registry of Deeds.
6. Any changes to the plan shall be subject to further Planning Board review.

PB2020-06 Davenport Companies, 10 Celebration Way, Use Special Permit with Waivers

Representative: Philip O. Scholomiti, PLS

Chairman McParland opened the hearing at 8:07 PM by reading the legal notice into the record. Estate of James G. Marceline, as owner(s) seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 10 Celebration Way, Map 81, Parcel C1-3 in the R-L District.

Mr. Scholomiti explained the proposed project to construct a two-family dwellings. The property is located in R-R zone, and a 4 lot subdivision was recently approved by the Board. The additional requirements met are as follows; 40,000 sq. ft. lot size minimum is met, floor area units exceed 800 sq. ft., units are connected with a roof, each unit contains 2 off street parking spaces, a compliant title 5 septic system will serve the dwellings. They are requesting a waiver requiring an affidavit by the owners stating that they will live in a unit. All the units will be rented on a year round basis. The proposed dwelling is an appropriate use, and is not detrimental to the neighborhood. They intend to only build four bedroom on the parcel, but would like to have the opportunity to expand in the future to 6 bedrooms.

A discussion ensued.

Ms. Maslowski made to the motion to close the public hearing at 8:16 PM, seconded by Mr. Peterson, unanimously so voted via roll call.

On a motion from Ms. Maslowski and seconded by Mr. Chadwick, the Planning Board voted unanimously (7-0-0) to adopt the following findings:

1. The lot contains the minimum requirement of 40,000 SF of upland.
2. Each dwelling unit's floor area is greater than the 800 SF minimum requirements.
3. A common roof connects the dwelling units.
4. The parcels provide sufficient access for two spaces for each unit.

5. The use as developed will not adversely affect the neighborhood.
6. The specific site is an appropriate location for such a use, structure or condition.
7. There will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski and seconded by Mr. Peterson, the Planning Board voted unanimously (7-0-0) to approve the waiver from Article II, Section 400-17 A(1)(a) requiring a signed and notarized affidavit by the owner stating that he or she will live in one of the units on a year-round basis.

On a motion from Ms. Maslowski and seconded by Mr. Peterson, the Planning Board voted unanimously (7-0-0) to approve with conditions a Use Special Permit with waivers for PB2020-06 Davenport Companies, applicant and prospective buyer, Estate of James G. Marceline, as owner, a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §325-13.A, §325-51 and §325-51.N for the property located at 10 Celebration Way, Map 81, Parcel C1-3 in the R-L District, based on the aforementioned findings of fact and the fact that the application meets the necessary requirements and criteria for approval; with the following conditions:

1. Each unit shall have no more than three (3) bedrooms, per the Board of Health.
2. Revised building plans representing three (3) bedrooms per unit shall be filed with the Planning Board and Town Clerk prior to the issuance of a building permit, if so choose to build 3-bedroom units.
3. All stormwater runoff generated within the subject property shall be controlled and infiltrated on the subject property; up to and including the 100 year storm event.
4. No commencement of site work shall be conducted until stormwater design is reviewed and approved by the Town Engineer.
5. Said lot must be released from the Planning Board Covenant, recorded at the Barnstable County Registry of Deeds Book 32590, Page 128, before any site work can commence.
6. The Special Permit decision shall be recorded at the Barnstable County Registry of Deeds.
7. Any changes to the plan shall be subject to further Planning Board review.

Zoning Amendment Public Hearing

Chairman McParland opened the hearing at 8:20 PM by reading the legal notice into the record. In accordance with the provisions of MGL c.40A §5, the Harwich Planning Board will hold a public hearing on Tuesday, February 25, 2020 not earlier than 6:30 pm in the Donn B. Griffin Room, Harwich Town Hall, 732 Main Street, Harwich, to consider an amendment to the Harwich Zoning Codes:

Article ____: To see if the Town will vote to amend the Code of the Town of Harwich – Zoning by deleting the definition of “Essential Services” within §325-2 – Definitions and by deleting within §325-13 – Table 1, Paragraph II – Public and Quasi Public Uses, Item 3 – Essential services; facility, utilities.

Mrs. Greenhalgh explained that on January 14, 2020 the Planning Board voted unanimously to send the proposed zoning amendment relative to the removal of the term Essential Services to the Board of Selectmen to begin the public hearing process pursuant to MGL c.40A, §5. The proposed amendment was sent to the Board of Selectmen on January 15, 2020. On January 21, 2020 Board of Selectmen voted to refer the proposed zoning amendment relative to the removal of the term Essential Services to the Planning Board. This was forwarded to the Planning Board

on January 23, 2020. The legal notice for this amendment was sent to the Cape Cod Chronicle on January 30, 2020 for publication in the February 6 and February 13, 2020 editions. On February 5, 2020 the required notice and copies of the full text involved, was posted on the Planning Board's Town Webpage and copies were made available at the Town Clerk and Community Development Offices. A copy of said posting is attached. Additionally, the legal notice was posted with the Town Clerk. On February 5, 2020, the abutting towns – Dennis, Brewster, Chatham and Orleans, the Cape Cod Commission and the MA Department of Housing and Community Development were notified via regular mail about the pending zoning amendment. The public hearing for this zoning amendment is scheduled for Tuesday, February 25, 2020, not earlier than 6:30 pm.

The process for the hearing is as follows: 1. The hearing must be opened and the legal notice must be read into the record. 2. The proposal should be explained. 3. The hearing must allow for public comments. 4. The Board should discuss and deliberate. 5. If the Board is ready to close the public hearing, do so; otherwise the hearing should be continued to a date and time certain. 6. If the hearing is closed, the Board must then vote on a recommendation to the Town Meeting. This vote does not need to occur on the same night as the public hearing; but the Board must decide when it will take the vote up at a future meeting. A positive motion is also preferable and the vote should be by rollcall. Example: Move to approve the proposed zoning amendment and recommend it to the Town Meeting.

The proposed amendment was at the recommendation of Town Counsel. There is a conflict between "Essential Services" and "Municipal Use".

Mr. Berry asked if there are any cons of striking Essential Services. Mrs. Greenhalgh said she does not know of any. Municipal uses have to go through Site Plan Review. Public utilities are governed under Mass General Law and go through a different process.

Ms. Maslowski said public utilities have to go through the Board of Selectmen because it occurs within a road right of way. The Board thought this was a benefit, and that is why they referred it to the Board of Selectmen.

Ms. Maslowski made a motion to close the public hearing at 8:27 pm, seconded by Mr. Berry, so voted unanimously by roll call vote (8-0-0)

Ms. Maslowski made the motion to approve the proposed zoning amendment and recommend it to the Town Meeting, seconded by Mr. Berry, unanimously so voted via roll call (8-0-0)

PB2020-07 Kristen Myers, Tr., Grey House Property Management Trust as owner, Waiver of Site Plan Review

Representatives: William Crowell and Dan Croteau

Chairman McParland explained that the applicants seek approval of a Waiver of Site Plan Review pursuant to the Code of the Town of Harwich §325-55.F to construct a first floor addition, a 12' x 14' shed for commercial storage, new first floor access, steps and landing along with improvements to the second floor steps and landing. The property is located at 515 Route 28, Map 14, Parcel Q11-1 in the C-V and V-C overlay zoning districts.

Mr. Crowell explained the proposal. They are seeking Site plan review waiver for a minor addition. The addition is shown on the plans. This is to create a small office area with bathroom and a wrapping station for retail sale shop. A shed is on site, which already has a building permit, and is for retail storage. Historic commission has already approved this. This addition will not change the relationship to the structure or abutting properties. It is very important to their client to be able to open by April 15th.

Mrs. Greenhalgh read departmental input and the Town Planners report into the record. Health: The septic system was installed in 2000 with a design flow of 462 gallons per day. The system passed inspection in 2018. The system has sufficient flow for the proposed use, and a Professional Engineer has already relocated the septic system reserve area to an acceptable new location. As the plan is proposed the Health Department has no concerns. Engineering: The Town Engineering and the Town Planner reviewed the application and plan together. There were no concerns or issues. Conservation: No concerns. Not in Conservation jurisdiction. Planning Staff Comments 1. This is a public meeting matter and not a public hearing. 2. As noted in the Engineering comments, we reviewed the application and plan together and there were no concerns or issues raised.

On a motion from Ms. Maslowski, seconded by Mr. Berry, the Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings of fact:

1. The parcel is in the C-V zoning district and V-C Overlay District.
2. The application does not substantially change the relationship of the structure to the site and to abutting properties and structures.
3. The existing site is suitable for the proposed use.
4. There is a negligible increase in retail space.
5. The proposed office space will be utilized by the existing retail use.
6. The existing building is non-conforming and the new building will conform to setback requirements.

On a motion by Ms. Maslowski, seconded by Mr. Peterson, the Board voted unanimously (7-0-0) by rollcall vote to approve Case PB2020-07 Kristen Myer, Tr., Grey House Property Management Trust as owner, for a Waiver of Site Plan Review pursuant to the Code of the Town of Harwich §325-55.F to construct a first floor addition, a 12' x 14' shed for commercial storage, new first floor access, steps and landing along with improvements to the second floor steps and landing for property located at 515 Route 28, Map 14, Parcel Q11-1 in the C-V and V-C overlay zoning districts. The decision is based on the aforementioned findings of facts and the fact that the proposal does not substantially change the relationship of the structure to the site or to abutting properties and structures and the application meets the necessary requirements and criteria for approval.

PB2015-12 Arthur's Way Partial Covenant Release Lot 6 & 7

Mark T. Smith explained that he is seeking the release of Lots 6 and 7 from the Planning Board covenant being held for Arthur's Way, aka "The Preserve". This subdivision is located off Route 139.

Mrs. Greenhalgh read her input into the record. In April of 2018 the Planning Board voted to release Lots 2 and 3. At that time the Town Engineer determined that the remaining work to be completed total \$176,390 and with a 50% contingency the amount is \$220,488. Two additional

Lots (4 & 5) were released in March 2019. I have reviewed the request with the Town Engineer, Griffin Ryder, and we concur that the remaining two (2) Lots (1 & 8) still held under covenant are more than adequate protection of the remaining covenant. Staff recommends the partial release of covenant for Lots 6 and 7 of the Arthur's Way subdivision, PB2015-12.

Ms. Maslowski made the motion to approve the partial release of covenant for Lots 6 and 7 of the Arthur's Way subdivision, PB2015-12, seconded by Mr. Peterson, so voted unanimously by roll call vote.

ADVISORY OPINIONS: Zoning Board of Appeals February 26, 2020- none.

MEETING MINUTES: January 28, 2020 and February 11, 2020

Ms. Maslowski made the motion to approve the minutes from January 28, 2020 and February 11, 2020, seconded by Mr. Chadwick, unanimously so voted.

OLD BUSINESS: None.

BRIEFINGS AND REPORTS BY BOARD MEMBERS:

Mrs. Greenhalgh stated that a public presentation on the MVP results will be in April.

Mrs. Greenhalgh asked if anyone has an issue with Mr. Berry taking part in the initial DCPC meetings. Mr. Harris thinks it a good idea, as did Mr. Stoltz. Ms. Maslowski is nervous that it would infringe on himself on his own personal interest. It is a potential conflict that this will have financial impacts. She recommends thinking about being the Planning Board representative. Mr. Chadwick agreed with Ms. Maslowski.

Chairman McParland asked Mrs. Greenhalgh to see if the building commissioner could attend their meetings.

ADJOURNMENT:

Mr. Peterson made the motion to adjourn at 8:51 PM, seconded by Ms. Maslowski, unanimously so voted via rollcall (8-0-0).

Respectfully submitted,

Kathleen A. Tenaglia, Board Secretary

Adopted: March 10, 2020