

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET- GRIFFIN ROOM
TUESDAY, JANUARY 28, 2020 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chairman Joseph McParland; Mary Maslowski; William Stoltz; Craig Chadwick; and Arthur Rouse. David Harris was present via remote participation. Vice-Chairman Alan Peterson arrived at 6:33 PM.

BOARD MEMBERS ABSENT: Duncan Berry.

OTHERS PRESENT: Town Planner, Charleen Greenhalgh; Cyndi Williams; Kyle Douglas; Alex Bardin; Ben Zehnder; Dave Michniewicz; Matt Nelson; David Reed; Andrew Singer; Bill Crowell; Art Boden; Bruce Young; Bradley Parsons; Liz Argo; Joe Della Morte, Carla Burke; Brendan Lowney; Judith Underwood; Steve Casbarro; Ginny Hewitt; Bob Nickerson; Alan Wirsul; Greg Winston; Bob Reed; Richard Waystack; Bonnie Hall; 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.

PB2019-49 Kyle Douglas, Use Special Permit for Alternative Access, 334 Oak Street

Representative: Kyle Douglas

Chairman McParland opened the hearing at 6:31 PM by reading the legal notice into the record. Owner seeks approval of a Use Special Permit for Alternative Access pursuant to the Code of the Town Harwich §325-18.P and -51. The proposal seeks access via a private driveway easement over 344 Oak St (Lot 2 shown on Plan Book 591 Page 64). The property is located at 334 Oak Street, Map 82, Parcel T1-3, in the R-L and Six Ponds Zoning Districts.

Kyle Douglas explained his request to have alternative access for his driveway at 334 Oak Street. Mrs. Greenhalgh read departmental comments and the Planner's report. Fire: No concerns, Police: No concerns, Highway: No concerns, Engineering: No concerns, Conservation: Received Conservation approval 10/23/2019, RDA 2019-19. Planning Staff Comments: 1) The reasons and explanations provided for this request are valid and a shared driveway does appear to be superior to access from the lot frontage. 2) Standard conditions are recommended.

There were no comments or questions by Board members or the public. Ms. Maslowski made the motion to close the public hearing at 6:33 PM, seconded by Mr. Chadwick, so voted (6-0-1) via roll call vote. Mr. Peterson abstained.

Following a duly made motion by Ms. Maslowski, seconded by Mr. Stoltz the Planning Board voted via roll call as follows: McParland – Yes; Maslowski – Yes; Peterson – Abstain; Stoltz – Yes, Chadwick – Yes; Rouse – Yes; Harris – Yes; to adopted the following findings:

1. The alternative access proposed is necessary to lessen any impact the wetlands in the area and therefore it creates a superior access way.

2. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
3. The specific site is an appropriate location for such a shared driveway.
4. There will be no nuisance or serious hazard to vehicles or pedestrians.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick the Board voted via roll call as follows: McParland – Yes; Maslowski – Yes; Peterson – Abstain; Stoltz – Yes, Chadwick – Yes; Rouse – Yes; Harris – Yes; to approve with conditions Use Special Permit for Alternative Access pursuant to the Code of the Town Harwich §325-18.P and -51. The proposal seeks access via a private driveway easement over 344 Oak St (Lot 2 shown on Plan Book 591 Page 64). The property is located at 334 Oak Street, Map 82, Parcel T1-3, in the R-L and Six Ponds Zoning Districts; 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 special permit decision shall be recorded at the Registry of Deeds.
2. Any changes to the site plan shall be subject to further Planning Board review.

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

Representative: Ben Zehnder, David Michniewicz, Alex Bardin and Matt Nelson.

Chairman McParland re-opened the hearing at 6:38 PM. Applicants seek 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 14, 2020.

Attorney Zehnder explained the proposal of a Multi-Family dwelling. He explained that they also have to go in front of the Zoning Board of Appeals, which is scheduled for tomorrow evening. Mr. Michniewicz then reviewed the existing site plan, as well as the proposed site plan and the improvements. Mr. Zehnder also reviewed additional improvements the project will be bringing to the site. They are seeking Site Plan Review Special Permit and a Special Permit for Multi-Family for the two existing buildings on the site. The property had previously be used as an Assisted Living Facility and the new owner seek approval for 26 apartments. Additional parking and an accessible front entrance will be added. It was explained that the property has 424.3'of frontage along Parallel Street and Bank Street and is improved with two existing buildings, a 15,239 sq. ft. structure originally built in 1900 and later increased to its current size, and a 1,118 sq. ft. structure built in 1985. It is currently used as the location of an assisted living facility and a senior day care facility, which are allowed uses by special permit in the district under Bylaws §325. The applicant proposes converting the use of the property from the current assisted living use to multifamily dwelling residential use. This use is allowable in the MR-L district by special permit under the Table of Use Regulations, however, a variance from the Bylaw lot area and density requirements (minimum 10 contiguous acres lot area; maximum density of 8 bedrooms per acre is required, pursuant to Bylaw §325-52 and General Laws, c. 40A, §10. In addition, the applicant has applied for Site Plan Approval pursuant to Bylaw § 325-55, as required by subsection C2. The property is otherwise conforming in the Harwich Center Overlay District, having more than the required minimum 15,000 sq. ft. of lot area, 10' side and rear setback distances, 5'side and rear setback distances, 150'frontage, and less than the maximum building coverage and maximum site coverage. The applicant wishes to

convert the existing use to the proposed multifamily use. Specifically, Royal Apartments proposes no exterior changes to the building and minimal reconfiguration of the existing structure inside the property. The applicant will do exterior maintenance and painting to the structure and will reconfigure the parking areas to make 41 parking spaces to accommodate the 26 new apartments. These will be a mix of studio and bedrooms 1-bedroom and 2-bedroom apartments in the two existing buildings, for a total of 33 bedrooms.

Mrs. Greenhalgh provided departmental comments. Health: The Health Department requires that a passing Title 5 inspection be submitted prior to any building permit approval. Fire Chief: No concerns, but he does fully endorse this project. Police & Highway: No concerns. Conservation: As proposed all work is outside the 100' buffer zone. Erosion control shall be install on the 100' line to ensure work stays out of conservation jurisdiction. Permits required if work will enter conservation jurisdiction. Engineering: The Town Engineer reviewed the plans with the Town Planner. Additionally, he will be reviewing in detail the Stormwater Report and provide comments as needed. Planning Staff Comments: 1) As noted, the Town Engineer and Town Planner met to review the plans and application as submitted on December 23, 2019. At that time comments were sent to the applicant. We reviewed the revised plans on January 9, 2020. Many of the items raised were addressed with the revised plans. 2) To clarify, Sheet SP-3 should be titled "Lighting Plan". 3) The Town Engineer did meet with the Applicant's Engineer for the purposes of review the stormwater management on the site. 4) In addition to the sections of the zoning code already referenced the following subparagraphs (I – L) pursuant to §325-18 – Additional Regulations. 5) This property was been used as an Assisted Living Facility for a number of years. The number of total bedrooms within the structures is not increasing and other then the additional parking being added and the accessible entrance, the exterior of the buildings is not changing. 6) Relief from the Zoning Board of Appeals will be needed for the land area. 7) Reasonable conditions are recommended including: A) Erosion control shall be install and maintain during construction on the 100' conservation buffer line to ensure work stays out of conservation jurisdiction. Permits from Conservation shall be required if work will enter conservation jurisdiction. B) A passing Title 5 inspection be submitted to the Health Department prior to any building permit approval. C) All signage shall comply with the Sign Code, Historic District & Historical Commission and Building Department Requirements. D) All lighting shall comply with the Lighting Code and Historic District & Historical Commission Requirements. E). Appropriate relief from the Harwich Zoning Board of Appeals shall be required. F) Appropriate approvals from the Historic District & Historical Commission shall be required. G) 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. H) This decision shall be recorded at the Barnstable Registry of Deeds. I) 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.

Mr. Stoltz asked if a dumpster will be on the property. Mr. Michniewicz pointed to where it is located on the site plan, just off Parallel Street down a small driveway. He also asked if there are any plans to connect the side walk to Bank Street. Mr. Michniewicz said there were no plans at this current time.

A lengthy discussion ensued, and Board members asked many questions, all which were answered by the applicants.

Bruce Young, Fire Inspector, voiced a few concerns on the dumpster location, for fear of dumpster fire, as well as concerns for the neighbors for trucks backing up onto Parallel Street. He also questioned if there was a shed, or any areas for storage. It was answered that there will be storage available in the basements. Mr. Young stated there is nothing specifically in the code that states they have to move the dumpster, it is merely a suggestion. The applicants said that they would revise the plan with a new dumpster location.

Attorney David Reed, representing 109 Parallel Street, stated they have many concerns. He started with the site plan zoning compliance chart. It appears to show that the project is in substantial compliance, but the overlay district setbacks only come into play if you chose to approve the special permit. It still must adhere to the MRL zone. The board should also understand that there are substantial existing non-conformities that will remain. He has also not seen the landscape plan, which requirements must be met. The special permits for the use is also a problem. The prior use, and the proposed use, are not the same. The prior use was for elderly who were not commuting, and to substitute 33 multi-family bedrooms is a world of difference. It is not the same magnitude or type of use. The other small building, 111 Parallel Street, has never been used as a residence before. Traffic is also an issue. When approving, it is a requirement that the use will not adversely affect the neighborhood, and the site is appropriate for the use. Any multi-family use requires a minimum of 10 acres, and any multifamily use cannot have a greater density than 8 bedrooms per acre. The site is less than 20% of the requirement. He asked that the Board not approve this proposal.

Carla Burke, 200 Bank Street, has some concerns on the congestion and traffic in the area. She works at the library, and crosses Parallel Street to get there. She noticed in the staff report section that it listed “no nuisance or serious hazard to vehicles or pedestrians”. It is her understanding that this was not studied by the traffic safety committee in town. She thinks traffic needs to be considered.

Art Bodin, Harwich Housing Committee Chairman, 800 Orleans Road, believes that this is a great project. There are many comments on traffic, rightfully so, but he hasn't heard anything about people. What do we do for people? We need more apartments. Not only in Harwich but the whole Cape, and all of Massachusetts. We need places for people to live. Not only affordable housing, but market rate housing. We're trying to revive Harwich center, and what a better way than to bring people to the center. This is a great opportunity. The developer sounds like they are willing to work with everyone. Think of the people we are servicing.

Judith Underwood, 220 Sisson Road, also a trustee of the Affordable Harwich Trust, Water Commissioner, and with the Housing Authority, wants to echo what Art said. We need more housing stock. This gives young professionals a place to live on Cape Cod. This is huge. She understands that young people want to live and work on Cape Cod, but there is nowhere to live. This is a good project, and a good location. Traffic is bad 3 months out of the year anyway. This makes Harwich more walkable. This is a great opportunity to make it vibrant again. Please support this project.

Ginny Hewitt, Library Director, said when she first heard of this project, the density surprised her. As she looked into the project, she believes it meets all the zoning requirements. She wishes there were a few less units, but she thinks it certainly meets all requirements. Parking originally concerned her, but after library hours, it wouldn't be a problem if people parked there. She is also on the Harwich Initiative Committee. She fully supports this proposal. Rental housing is a priority in the

Towns housing plan. There is a huge need for housing. This is a historic building, and the inn was moved to that site in 1913, and has never been a single family home. Seems like a consistence use, a similar purpose. This is a welcomed addition to revitalize the center.

Alan Wirsul, 2 Englewood Drive, abutter to this property, stated he is totally against this for the same reasons as Attorney David Reed. This project will set a precedent across not only Harwich, but Cape Cod for properties developed on a postage stamp. Most of this property is made of wetlands. There is not enough parking, not have they addressed the issue of children. This is very different than a nursing home. If those apartments were condos, then you would have more tax revues for the people of Harwich. This Township has been wonderful, but this would change the whole dynamic of this place. Other applicants will come to develop properties that are not large enough to accommodate the proposal. The Planning Board needs to take this very seriously. The density will nearly double, children playing on Parallel and Bank Street with no fences. Once this is signed over, the Town has no jurisdiction. Tenants' have all the rights, they will lose total control over this property. How can the Planning and Zoning Board approve a project like this?

Greg Winston, abutter and owner of the Winstead Inn and Beach Resort, as well as former owner of 328 Bank Street. He purchased the property from Snow Inn in 1981, where he opened the Winstead retirement center. He added a wing, and had 32 guests. At that time they couldn't have kitchens because of the density, so no food preparation was done other than what could be done at a wet bar. There were 32 people with only 2 kitchens. How can these people have 33 apartments, with all the kitchens? It is too much density. His attorney has already referred to the size of the lot for what is being proposed. This is a for profit operation. Not something to make the town look pretty. Not enough parking, not enough green space, this is just a very bad idea. He is totally against it. He also spent time on the Harwich historic commission. Bob Doane and he adopted the first guidelines. He worked with the planning board to design the overlay district. He is the Chairman of the Mid Cape Church Homes, the largest provider of homes, Pine Oaks 1-3 and is developing Pine Oaks 4. They already looked at the property as a possible stop gap for Pine Oaks 4. They investigated to see if this would work for elderly in a smaller number, they were advised that this property does not have enough land. They are providing quality housing with its own infrastructure. People will be packed in like sardines at this project. There is no room for a lawnmower, or children's toys.

Brendan Lowney, 25 Pleasant Lake Ave, is on the Historic Commission and Affordable Housing Trust. Cape Cod Commission information states that single family homes makes up 52% of housing in Massachusetts, 80% of Cape Cod, and 88% of Harwich. There is a need for multifamily housing. He asked that the Board consider this proposal. He is in favor of all housing, and he will leave it to the Board to decide the density factor of this property.

David Plunkett, Winstead Inn, abutter on two sides. The parking diagram does not have the required green space. How can the Board approve this without seeing the green space? 39 spaces with 33 bedrooms is inadequate. There will be no guest spaces. This is too dense.

Carla Burke doesn't have a problem with housing, it's the density. She spoke to the Town Planner about the nuisance, and she mentioned the applicant had to demonstrate how they will do that. She felt like she didn't get an answer when she spoke earlier.

Mr. Bardin asked how you prove a negative. It's very difficult. There is already septic capacity, residence staff, deliveries, visitors, lodging come in at a nightly basis, and it's a different use. Apartments live on a consistent schedule. They don't believe that number of spaces are going to significantly impact traffic. No significant change in the property. There are many perspectives of the project. The immediate neighborhood have concerns on density and traffic, and the community general has a concern on housing. If this is approved, 26 units of people will live in this Town. This will increase the tax base of the Town. This is not a nuisance to have housing. As a board you are not here to protect the neighbors, but the committee. The abutters have the right of appeal. Based on 8 per acre, they could put in 45 bedrooms, 40B is always an option, and density limitations come off the table. These will be well built and maintained. Mid Cape Church homes does great work. This type of work compliments that type of housing, they complement each other.

A lengthy discussion ensued.

Ms. Burke asked that the traffic safety committee take a look at this proposal. Mrs. Greenhalgh stated that they do not meet regularly. It could be difficult to have them look at it.

Mr. Zehnder wished to continue to February 11, 2020. Ms. Maslowski made the motion to continue the public hearing to February 11, 2020 no earlier than 6:30 PM, seconded by Vice-Chairman Peterson, unanimously so voted via roll call.

Recesses was taken at 8:02 PM. Recesses ended at 8:06 PM.

PB2019-46 Greenskies Renewable Energy, Site Plan Review Special Permit, 183 Oak Street
Representative: Bradley Parsons and Liz Argo

Chairman McParland re-opened the hearing at 8:06 PM. Applicants seeks approval of a Site Plan Review Special Permit pursuant to the Code of the Town of Harwich §325-55, in conjunction with §325, Article XXIII to establish a Large Scale Photovoltaic Array at Cranberry Valley Golf Course, owned by the Town of Harwich. The proposal consists of both a ground-mounted array and a rooftop array on the cart barn building. The property is located at 183 Oak Street, Map 61, Parcel H1 in the R-R and W-R zoning districts. Hearing continued from January 14, 2020.

Mr. Parsons explained the proposal for the ground mounted solar array Cranberry Valley Golf Course. Mr. Parsons reviewed all of the waiver requests. He also reviewed the existing conditions plan, as well as the proposed plan. The applicant won a bid solicitation and was awarded the project for Photovoltaic Arrays (PV) through Cape & Vineyard Electrical Company, Inc. (CVEC) on behalf of the Town of Harwich. The applicant is now before the Planning Board for Site Plan Review. Because the standard Site Plan Review does not address the specifics of a PV development, the applicant was advised by Town Staff to utilize the requirements of §325, Article XXIII Large-Scale Ground Mounted Photovoltaic Arrays, and more specifically §§325-140 through 148.

Mrs. Greenhalgh provided the department comments: Health, Golf, Fire and Police: No concerns. Conservation: The applicants filed for an Administrative Review for work in the 100' buffer zone to pond and it was approved 12/12/19. Permit is good for 1 year. Building: Building Permit Required. Engineering is included in Planning Staff Comments; 1. The Town Engineer and Town Planner reviewed this application on December 19th, with comments sent to the application on December

23rd. All comments and questions raised at that time have been addressed. 2. As previously noted, Town Staff recommended that the applicant utilize the requirements of Chapter 325, Article XXIII Large-Scale Ground-Mounted Photovoltaic Array for their submittal. This section of the bylaw lends itself much more closely with the needs and review demanded by this type of development. 3. At the May 2019 Annual Town Meeting, the Town voted to approve Article 33: ARTICLE 33: To see if the Town will authorize the Board of Selectmen to enter into long term leases, licenses, agreements, or other contractual agreements on behalf of the Town, subject to such terms and conditions as the Board of Selectmen shall deem to be in the best interest of the Town, for all or part of any of the following Town owned properties including: Cranberry Valley Golf Course (grounds and cart barn), for the purposes of developing, sponsoring, administering, installing, operating, and maintaining solar photovoltaic energy systems and supplying solar energy, and further to authorize the Board of Selectmen and Town Administrator to take such actions as may be necessary under Massachusetts law to effectuate said agreements; and to act fully thereon. 4. The site went through a full site plan review in 2018 and at that time solar was anticipated on the roof of the cart barn. 5. The requested waivers are appropriate. 6. Standard conditions are recommended.

Board members asked several questions, all which were answered by the applicants. A lengthy discussion ensued.

Steve Casbarro, 48 Hillcrest Drive, asked if there will be any expansion of this site in the future? It was responded no.

Ms. Maslowski made the motion to close the public hearing at 8:41 PM, seconded by Mr. Chadwick, unanimously so voted.

On a motion by Ms. Maslowski and seconded by Mr. Chadwick, the Planning Board voted unanimously by way of a roll call vote (7-0-0) to approve the following waivers based on the facts presented by the applicant:

1. Waiver from provision of §400-16B, and in the alternative to allow the plan to follow requirements of Chapter 325, Article XXIII Large-Scale Ground-Mounted Photovoltaic Arrays, §325-140 Large-scale Solar Review.
2. Waiver from provision of §325-140B (2)(b) with respect to the boundary survey prepared by a Registered Land Surveyor as the Facility is located over 500 feet from the nearest property line to the west, per the Town GIS.
3. Waiver from §325-140B (3)(h) as §400-18 Review Procedure was followed.
4. Waiver from §325-140B (3)(g) with respect to the required description of financial surety, which will become a condition of approval to satisfy the requirements of §325-148.

On a motion by Ms. Maslowski and seconded by Mr. Chadwick, the Planning Board voted unanimously by way of a roll call vote (7-0-0) to adopt the following:

1. The parcel is located within the RR zoning district and is within the boundaries of the Cranberry Valley Golf Course.
2. The nearest home is over 1,000 feet away and would not be affected by the proposal.
3. The 2019 Annual Town Meeting approved the use of the land and the cart barn for this purpose.
4. This area of the golf course went through a full site plan review in 2018, which anticipated solar on the roof of the cart barn.

On a motion by Ms. Maslowski and seconded by Mr. Stoltz, the Planning Board voted unanimously by way of a roll call vote (7-0-0) to approve with conditions and waivers case number PB2019-46 Greenskies Renewable Energy for a Site Plan Review Special Permit pursuant to the Code of the Town of Harwich §325-55, in conjunction with §325, Article XXIII to establish a Large Scale Photovoltaic Array at Cranberry Valley Golf Course consisting of both a ground-mounted array and a rooftop array on the cart barn building for property located at 183 Oak Street, Map 61, Parcel H1 in the R-R and W-R 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. The following conditions are imposed:

1. Prior to the issuance of a Building Permit, the applicant shall submit to the Planning Board for review and approval the necessary documentation to satisfy the requirements of §325-148 Financial Surety.
2. This decision shall be recorded at the Barnstable Registry of Deeds.
3. 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.

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

Representative: Andrew Singer, David Michniewicz, Mike Sharlet, Bill Ganshirt, George Gakidis, and David Hawk

Chairman McParland re-opened the hearing at 8:45 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 14, 2020.

Mr. Singer reviewed the entire proposal and provided the following: The Wychmere Beach Resort located at 23 Snow Inn Road in Harwichport is a multi-use function and resort development. The Applicant/Owner, Wychmere Harbor Real Estate, LLC, is seeking to amend the Site Plan Review Special Permit granted in Case No. PB2010-26 in order to make further improvements to the beach club facilities at the southern end of the Property as shown on the submitted plans. Specifically, the Applicant is proposing to replace the existing restaurant/pool equipment building, two swimming pools, the concrete pool deck, and some of the wooden decks and other existing site improvements at the swimming pool area as well as to relocate the existing Coastal Pavilion restaurant facilities, all with a new restaurant building, a relocated Coastal Pavilion with attached addition containing restrooms and a small retail space, two smaller swimming pools, new pool reception kiosk, and a new concrete pool deck with integrated open and planting areas. The Beach Club is located completely within the R-H-3 Zoning District. The proposal has been designed to aesthetically complement the overall Harbor Club and Beach Club property. There will be no change in parking demand on the Property as part of the proposal. There will be no change of use on the Property. All

parts of the proposal will conform to yard setbacks. Building coverage will remain conforming. There will be a decrease in the pre-existing nonconforming impervious site coverage as well as amenities coverage. Property The Property, which contains 15.0± acres of land and is shown as Parcel P-2 on Harwich Assessors Map 8, is bounded on the south by Nantucket Sound, on the east by the entrance to Wychmere Harbor, on the west by Snow Inn Road and Town-owned beach property, and on the north by residential properties. 2 The Property is improved with: A. The Beach Resort facilities, including the: 1. Wychmere Harbor Club Building (two-story restaurant and function facility); 2. Wychmere Beach Club (including restaurants, pool bar, swimming pools, and associated amenities); 3. Snow Inn Building (26-guest room hotel plus offices); 4. Channel House Building (6-guest room hotel plus fitness club); and 5. Outside function lawns and decks; B. Eleven (11) residential condominium units in three buildings; and C. Associated parking, wastewater treatment, and amenities. Coverages and Parking. The uses at the Property have previously been determined by the Town during numerous regulatory reviews to be pre-existing nonconforming because they were commenced decades ago and predate current zoning regulations. The site coverage and amenities coverage of the Property (parking areas, pools, spas, basketball court and similar impervious amenities and facilities) are also pre-existing nonconforming. With the creation of the new circular drive entrance to the beach club, there will be a reduction of fifteen (15) grass parking spaces from the existing 252 spaces. Shared parking will continue for the non-residential uses, including the previously-established parking management plan which also incorporates off-site parking and shuttle van service during the summer season (see below). The residential condominiums have separate, dedicated parking. Occupancy. There will be no change in the currently-permitted occupancy of the Property. Current occupancy on the Property is as follows: 650 maximum restaurant seats spread throughout the site, 26 hotel bedrooms plus office space in the Snow Inn Building, six (6) hotel bedrooms in the Channel House Building, and 43 bedrooms in the 11 residential condominium units. As previously reviewed and approved the Planning Board, the on-site restaurant seats are shared between the various venues on site with the maximum number of authorized restaurant seats in use not being exceeded at any given time. Prior Regulatory Approvals Over the years, there have been numerous regulatory reviews and approvals granted for various redevelopments of different portions of the pre-existing nonconforming Property. The Board of Appeals, Planning Board, and Conservation Commission have each issued several decisions concerning the Property. The Beach Club was last redeveloped in 2010. In 2013, the Planning Board, Board of Appeals, and Conservation each approved a redevelopment of the Snow Inn Hotel building and construction of thirteen additional residential condominiums in a large, new building in the center of the Property. This redevelopment was ultimately not constructed. Parking-There will be no change or intensification in use as part of the proposal, and parking will remain sufficient. With the exception of approximately eight (8) weekends during July and August for which a detailed parking management program is in place, there is an excess of parking at the Property. Shared 3 parking will continue for the non-residential uses. The existing eleven residential condominiums have separate, dedicated parking. Exclusive of this existing dedicated residential parking, the commercial parking spaces will continue to service the shared Beach Resort activities. All of the residential unit owners are also members of the Beach Resort and utilize their respective, personal parking spaces. During the height of the season, the on-site parking spaces are allocated as needed among Beach Club members, event guests, and hotel guests. Because all events are scheduled months in advance, the Resort operators know how many guests are attending and when. This allows them to manage the parking efficiently to provide adequate coverage for all activities on the Property. Buses are arranged to transport guests to the Property from off-site locations when necessary. All employees park off site and are shuttled or ride bicycles to the Property. The shuttle

runs from 8:00 a.m. to midnight on each Saturday and Sunday and any other day deemed necessary due to event scheduling (primarily between June 15th and Labor Day). In addition, events are staggered such that most functions take place at times when the Beach Club is less active, and Beach Club activity is highest when functions are less active. Occupancy Commercial occupancy at the Beach Resort will remain the same. This includes: 1. A maximum of 650 restaurant seats shared among multiple buildings and function areas; 2. Up to 600 members (potential) at the Beach Club; 3. 26 hotel bedrooms in the Snow Inn Building; 4. Six (6) hotel bedrooms in the Channel House Building; and 5. Office space. There will be no change in the 43 bedrooms in the 11 residential condominium units. Building Height Maximum building height in the RH3 Zoning District is four stories and 50 ft. As shown on the submitted elevation plans, the reconstructed restaurant building (elevated to comply with flood plain regulations) will be a conforming two stories and height (49 ft. 10 in. to the top of the cupola, 36± ft. to the top of the roof bar, and the vast majority of the structure is at 27± ft.). The height of the relocated Coastal Pavilion structure will remain the same (35± ft.). Coverages Building coverage on the Property will remain conforming (11.4% proposed). Site coverage will continue to be nonconforming (39.9% proposed), but will be decreased slightly from the 40.1% existing site coverage. Amenities coverage will continue to be nonconforming (28.5% proposed), but will be decreased from the 29.9% existing amenities coverage. Green space will total 397,424 sq. ft. (60.1%). 4 During the Conservation Commission review of the proposed redevelopment, the Commission members asked the Applicant to study reducing the application of fertilizer and nitrogen to the function lawn areas in order to better protect the environment and the coastal resource areas. The submitted plans meet this request by converting a portion of the manicured function lawn area to a new synthetic turf that requires no watering, no fertilization, and no maintenance. The Applicant submits that the new turf area (to be installed as shown predominantly within the reconfigured swimming pool area to break up the massing of the concrete pool deck) is not site coverage or amenities coverage as each are defined in the Harwich Zoning By-Law. As discussed with Town Staff, the above analysis has been used in the calculation of the coverage numbers. The definition of site coverage is “the aggregate coverage of an individual site by buildings, parking areas and driveways (regardless of surface material), pools, decks and other permanent structures and all impervious surfaces.” Structure is defined as “a combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, pool, reviewing stand, platform, bin or the like.” The definition of amenities coverage refers to “parking lots, roads, streets, tennis courts, swimming pools and like amenities and facilities...golf courses, putting greens, bowling greens and similar amenities which do not involve covering the ground with any impervious material shall not be included for the purpose of computing the total ground coverage of a project.” With the exception of parking (which is counted as site coverage no matter the surface materials), both site coverage and amenities coverage expressly exempt all pervious materials from being included in such calculations. The turf being proposed in response to the Conservation Commission’s environmental request and the sand with loosely compacted gravel base are not only permeable materials, they have been documented to be significantly more permeable than the loam and seed that make up manicured lawns. The proposed turf in place of the lawn area does not meet the express definitions of either site coverage or amenities coverage as set forth in the Zoning By-Law. Landscaping, Lighting, and Drainage. A detailed landscape plan program is proposed for the redeveloped beach club facilities. A lighting plan and cut sheets have been provided. All lighting will comply with the Harwich lighting regulations and will be dark-sky compliant. Drainage will be improved by the reconfiguring of the pool deck areas with integrated open areas as well as by the replacement of a portion of the lawn with the new turf and upgrading existing drainage facilities. There will be no

adverse impacts to surface water quality or groundwater quality. A Stormwater Report has been submitted. Conclusion- The proposal satisfies the provisions of the Zoning By-Law. The proposal will result in an existing building, including pool equipment and bathrooms, being relocated above the 100-year floor elevation. This will eliminate a pre-existing nonconforming condition and result in better environmental and stormwater protection than existing conditions. There will be no impact to parking, use, and traffic, and the proposal protects the safety, public health, convenience and general welfare of the community.

Mr. Singer pointed on the site plan where the proposals were to be made, as well as parking, and other issues. A lengthy explanation ensued on each area.

David Michniewicz, the engineer, discussed the existing site plan, as well as the proposed site plan. George Gakidis, the architect, reviewed the design structure. Dave Hawk, the landscape designer, reviewed the landscaping proposal and green space.

Mrs. Greenhalgh provided departments: Health: The septic system is regulated through the Department of Environmental Protection with a groundwater discharge permit. I recommend referral to the DEP to ensure the changes are within the scope of the wastewater system and do not require additional inspections. The proposed restaurant will require a new food service permit through the Health Department. Review of the floor plans and finishes is required prior to approval of a building permit application. Full compliance with the 2013 Federal Food Code is required. The new swimming pools fall under the jurisdiction of the Health Department and will require a full plan review through our office in addition to the Building Department. Full compliance with 105 CMR 435.00: Minimum Standards for Swimming Pools, the State Sanitary Code Chapter V is required. Fire, Police & Highway: No concerns. Conservation: Please see the attached memo from Amy Usowski, Conservation Administrator, date received January 16, 2020. Engineering: The Town Engineer reviewed the plans with the Town Planner. Planning Staff Comments: 1. As noted, the Town Engineer and Town Planner met to review the revised plans and application Jan. 8, 2020. Several question arose, and on Jan. 13, 2020 there was a staff level review with the applicant and several representatives. At this review meeting, several questions and concerns were raised and two revised plans were submitted on January 17, 2020 along with a more descriptive memo of the project. 2. The Town Engineer is awaiting additional information regarding the stormwater drainage. 3. The applicants propose to use artificial turf in an around the pool area. They are counting this material not as lot coverage, but as green space. No information has been provided to the Planning Board as to the composition of the proposed material and base that will be needed for this artificial turf. I am not convince one way or the other as to the validity of identifying this a “green space”; which historically has been vegetation, a living thing. 4. Additionally, with regard to the artificial turf, the question arose as to whether this will leach any chemicals or plastics into either the ground water or into Nantucket Sound. 5. The Conservation Commission should review and approve this application before the Planning Board renders a decision. A large portion of the area involved is within a FEMA Flood Zone, for which Conservation has jurisdiction. Any requirements imposed by the Conservation Commission should be adopted by the Planning Board. 6. This will also require relief from the Zoning Board of Appeals, which is scheduled on January 29, 2020. 7. For the Beach Club Building a Roof Deck elevation of 34’ has been provided on the building plans; however an overall height of the proposed building has not been provided. 8. No height dimensions for the Pavilion have been provided. 9. As of January 21, 2020, two letters has been received, copies attached. 10. At this time, the

recommendation is to hear from the applicant, any abutters or other citizens, and Board Members and to continue the hearing to a date and time specific.

Chairman McParland read two letters of concern into the record from Jack Welch, Snow Inn Road, and Thomas and Laurie Cosmer, of Davis Lane. The Board asked many questions, all which were answered by the applicants.

Bob Nickerson, Davis Lane, Pine Street, and Bay View, asked to see the south elevation. It is 34' to the deck level, he would like to see is an overlay of the existing building to see the actual impact of what is changing. Visual impact, looking south, is a new massive structure, he won't be able to see the water anymore. Merkel Beach wall will be right next to him. The structure is raised 12' from where it currently is as a starting point. Noise impact- as everyone has on alcohol license, 150'. They are under the same guidelines and requirements. He has heard noise in Harwich proper from these premise. How will the noise be mitigated with 4 bars onsite? How many bars are needed? With this level of money, it has to impact the number of people. Piping Plovers should be a consideration. The number of lights, and light mitigation is a concern. 130 pages of pictures of lights. Increased number of people that walk down snow inn road, someone will get hit. People drive very fast. Number of accidents have happened from Snow Inn to Route 28. There are no sidewalks. Davis Lane is a one way dirt Road that has many curves. This is a dangerous traffic pattern. Proposed mitigation for this project?

Bruce Young, 678 Route 28, asked if there is any fire department access to the pool. It was responded yes. He stated it is difficult for the fire department to get access to the jetty.

Ms. Maslowski made the motion to continue the hearing at 10:01 PM to February 25, 2020 no earlier than 6:30 PM, seconded by Vice-Chairman Peterson, unanimously so voted via rollcall.

PB2019-47 525 Camelot, Modification of a Site Plan Review Special Permit, 557 Route 28

Representative: Andrew Singer, Chris Henry, and Sean Riley

Chairman McParland opened the hearing at 10:08 PM, by reading the legal notice into the record. 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.

Mr. Singer requested that the Board cross out wine and beer from the floor plan, and not take that into consideration. It is ultimately up to the Board of Selectmen whether they can have a liquor license or not. The applicant has an approved site plans pursuant to Cases PB2016-20 and PB2017-13 for a mixed use development. A minor change to the site plan is proposed for minimal outdoor seating at the street front. A retail market is proposed on the first floor of the existing building and this use is allowable by right and requires no further approvals from the Planning Board. In conjunction with the retail market use, the applicant seeks a Use Special Permit for "Restaurant, Fast Food/Take Out" to allow for "take-out" foods, including but not limited to ice cream, deli sandwiches, coffee, etc.

Mr. Singer read his reasoning as follows: 525 Camelot LLC, owns the property at 557 Route 28 in Harwichport. The Property is located in the C-V and RH-1 Zoning Districts, and is improved with a recently-constructed, mixed-use building containing four dwelling units on the second floor and commercial space on the first floor. The Applicant previously sought and received a Site Plan Approval Special Permit and Use Special Permits from the Planning Board (PB2016-20, as modified in PB2017-13). The first-floor commercial space was discussed to be used for between one to four commercial tenants. At this time, the Applicant is proposing to have one commercial tenant in the entire space. There will be no change to the four residential units on the second floor. The primary use of the commercial space will be a retail market, which is allowed by right and requires no further regulatory review. A component of the market, a deli with ice cream and coffee service, requires an additional Use Special Permit as a fast food/takeout restaurant business. Twenty-four seats are proposed for this use- 19 inside and 5 outside on the front sidewalk adjacent to the building. Although the commercial use of the inside space on the first floor of the building does not require additional site plan review, the outside seats do require review. Based on all of the above, the Applicant is respectfully requesting an additional Use Special Permit in accordance with Sections 325-9, 325-13, 325-14.O, and 325-51 of the Harwich Zoning By-Law, as well as a further Modification of Site Plan Review in accordance with Section 325-55, as necessary, to allow the proposed use in a portion of the retail business and seating. The Board is authorized to grant the requested relief if certain findings are made. The Applicant respectfully submits that the findings can be made in this instance because: 1. The proposed use will be compatible with surrounding land uses in this commercial downtown area of Harwichport Center and will not adversely affect the neighborhood; 2. The Property remains an appropriate location for the proposed use, including outside seating, and will enhance the commercial downtown of Harwichport Center; 3. There will be no nuisance or serious hazard to vehicles or pedestrians. The existing parking (62 spaces) located to the rear of the building will remain conforming for the proposal. In addition, all commitments made in the agreements and easements with the abutting neighbors concerning access to and use of the shared parking area will be met, and the Applicant suggests that this be a condition of approval. Based on the foregoing, the proposed use will not adversely impact traffic flow and safety; 4. Adequate and appropriate facilities are provided for the proper operation of the proposed site. All of the activity, with the exception of the outside seats, will be located within the approved building. An enclosed trash area is provided in the rear of the Property. The loading facility originally approved by the Planning Board has been constructed and will not change. The septic system for the Property has been installed and has sufficient design and capacity to handle the proposed use in accordance with the health regulations. 5. Lighting complies with the Harwich lighting regulations; 3 6. All necessary facilities and utilities are and will continue to be adequately and appropriately provided for the proper operation of the use. This includes water, electricity, heat, air conditioning, site drainage and landscaping to maintain the visual appearance of the site; 7. The proposal remains in compliance with (a) the Planning Board's Rules and Regulations governing Site Plan Review and (b) the Zoning By-Law; and 8. The Applicant agrees that Conditions 2 and 3 contained in the prior relief issued by the Board (PB2016-20, as modified in PB2017-13) be re-incorporated in this Application. For all of the above reasons, the Applicant respectfully requests that the Board make findings that the criteria set forth in the Zoning By-Law have been met and grant approval of the Modification of Site Plan Review as necessary and a Use Special Permit for a fast food takeout restaurant business, to allow the proposal to be completed as shown on the plans.

Mrs. Greenhalgh provided department comments: Health: The Board of Health approved this proposal on July 11, 2017 with the following conditions: 1) Construction and operation of the

facility shall be as per the Environmental Impact Report dated May 31, 2017 – currently 4 retail spaces and 4 3-bedroom apartments. Potential uses outlined provide for a nitrogen loading capacity of 22.62 mg/l utilizing 12 bedrooms and a 57 seat food service facility. 2) Septic decision capacity allows for up to 3315 gallons per day although current proposal is for 1520 gallons per day. Applicant is aware that any change use must be pre-approved by applicant review boards. 3) Septic system use is for non-industrial waste only. Building: Building Permit Required. Questioned the parking for off-loading delivery trucks. Engineering, Fire and Police: No concerns. Planning Staff Comments: 1. 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. 2. The proposed use is allowable in the C-V zoning district through the special permit process. 3. The commercial use is restricted to the C-V zoning district. 4. No significant changes are proposed for the site plan; however a condition to the total number of outdoor is recommended, as is a condition that the outdoor seats not restrict sidewalk use or impede accessibility. 5. The parking as provided as adequate for the proposed uses. 6. Standard conditions are recommended. 7. Any signage will require a Sign Permit from the Building Department.

Board members asked several questions, all which were answered by the applicant. Chairman McParland read a letter of opposition from Joe Della Morte into the record, explaining how the sale of alcohol would be breaking a recorded covenant.

Attorney William Crowell spoke for both Mr. Della Morte and the Waystacks, whom he is representing. Mr. Crowell stated that this property is in the heart of Harwichport. A development agreement was made in 2016, which went smoothly until now. The restrictive covenant protects Cranberry Liquors from this building ever selling liquor. This is a substantial detriment to Mr. Della Morte. The petitioner is not acting in good faith. The small business next door will be hurt. Part of the business model and plan is beer and wine sales. If the liquor sales was resolved, they would not have a large problem with this special permit. They will be back to the selectmen for approval of sale of liquor on this property. They do not want them touting that the planning board had no problem, so the selectmen shouldn't have a problem. We should have a full discussion, like last time.

Mr. Della Morte spoke briefly about the agreement and the restrictive covenant. He explained that he gave up some of his parking when this process initially began in 2016. In exchange for parking, a restrictive covenant was created, protecting him from that building ever selling alcohol. He has no problem with the other aspects of the proposal, or if they even want to have a pouring license.

Richard Waystack stated he is concerned with this whole process. The planning board encouraged the original covenant and agreement, so why is it not being honored now? He explained that he has rights to their parking lot. Out of the 62 parking spots, 10 are Mr. Waystacks, 10 are Mr. Della Morte, and the rest belong to the applicant. There is a restriction on record at the Barnstable County Registry of Deeds stating this building cannot sell liquor, and yet the application includes alcohol sales. An out of state developer told them to cross out beer and wine on the application, but what does that mean? We work and live here, our word is our bond, and these out of state developers are not keeping their word. He would love to see a market go there, but he does not want his neighbor of 15 years be impacted. Good faith is them keeping their word. Bad faith is them saying I'm going to sell liquor, go back on our word, and compete with someone who has been selling liquor for 52 years. If the board must approve the application, please condition it so that no liquor sales can be

made on the property. He does not want to have to appeal the decision, or take it to court, so please support the restriction of record. When people make promises, they should keep their word.

Bonnie Hall has been coming to the Cape since she was 1 years old. She was in the original Harwich Jr. Theatre. She has been living here since 2006 as a fulltime Harwich resident. She also happens to be the co-owner of the easement path behind Harwich Commons. The right of way easement is partly hers. She is fully aware of all the liquor licenses that are around her. The Hot Stove, Perks, Ember, Mad Minnow, Cape Sea Grille, and The Port. She loves Cranberry Liquors. We don't need beer and wine from a deli. She fully supports a deli though. She lived on Braddock Lane, and didn't need to drive. She would love to have a close deli, but will fight tooth and nail if there's a liquor license to sell beer and wine, and hurt cranberry liquors. She is horrified to think that a lawyer will go around the covenant. She wants the owners to realize the chamber of commerce advises beach goes to walk through the parking lot, go through the right of way, up Braddock Lane, and go to bank street beach so people aren't on Bank Street, which is fast. She enjoys watching people walk by her house. Go on record she is totally against it, and will fight with her neighbors alongside her.

Bob Reed, 52 Hoyt Road, owns the nearby bookshop. He agrees with what everyone has said. He wants people to understand what Cranberry liquors has meant to the Town. They are civic minded and generous people. He stated that Joe will always help in a low key way, and has made a tremendous difference in the community. You need to know this is a person who has done business in the old style on a handshake. We need to support long time businesses, or we'll be a different kind of town down the road. What has attracted people to Harwichport is the kind of feel this place has. Businesses are coming out in solidarity, because these people make this town what it is. Think protectively of them.

Cyndi William, Harwich Chamber of Commerce Executive Director, thanked all the merchants that came out. This proposal is more than a deli. Harwichport is a community. Right down the street is the Mason Jar, a deli that has been there for a long time. We are a community. We embrace any project trying to come in and promote shopping local, shopping small, and shopping Harwich.

Mr. Chadwick asked several questions on the covenant. Ms. Maslowski made the motion to continue the hearing at 11:01 PM to February 11, 2020 no earlier than 6:30 PM, seconded by Mr. Stoltz, unanimously so voted via roll call.

ADVISORY OPINIONS: Zoning Board of Appeals - Mrs. Greenhalgh spoke to Case #2020-01 KNT Realty Trust, for which the Planning Board approved a 2 Lot subdivision with a panhandle, knowing it would need zoning relief. She asked the Board if they wanted her to write a memo for the application. The Board agreed that would be appropriate.

MEETING MINUTES: January 14, 2020 - Ms. Maslowski made the motion to approve the meeting minutes as written from January 14, 2020, seconded by Mr. Chadwick, unanimously so voted via roll call.

CONTINUED ZONING DISCUSSION IL ZONING DISTRICT EXPANSION:

Mrs. Greenhalgh presented the revised map showing the IL Zoning District Expansion along Queen Anne Road.

Ms. Maslowski made the motion to refer the zoning district expansion to the Board of Selectmen for their refer for appropriate public hearings with intent on town meeting warrant, second by Vice-Chairman Peterson, unanimously so voted via roll call.

PB2018-05: Cranberry Valley Golf Course Minor Site Plan

Mrs. Greenhalgh explained that in early 2018 the Planning Board approved the site plan for the cart barn and for a reconfiguration of the parking area and landscaping nearest the pro-shop/restaurant building. At this time and after operating for a season with the approved layout nearest the proshop/restaurant building. This new configuration would allow for 10 more parking spaces and a better configuration and traffic flow. Below are reductions of the existing and proposed configurations. The question to the Board: does this need to come back for full review. She explained that the applicant wants to reconfigure the traffic flow, close off the large traffic circle with planters, and the small area closest to the large parking area, add 10 more spaces, and redesign for their needs.

The Board decided the applicants do not need to come again before the Board for the changes.

BRIEFINGS AND REPORTS BY BOARD MEMBERS: None.

ADJOURNMENT: Motion to adjourn by Ms. Maslowski at 11:10 PM, 2nd by Mr. Chadwick, unanimously so voted.

Respectfully submitted,
Kathleen A. Tenaglia, Board Secretary

Adopted: February 25, 2020