

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH
VIA REMOTE PARTICIPATION GoToMeeting.com
THURSDAY SEPTEMBER 10, 2020 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chairman, Duncan Berry; Arthur Rouse; David Harris; Mary Maslowski; William Stoltz; Joseph McParland; and Craig Chadwick were all present via remote participation.

BOARD MEMBERS ABSENT: Vice-Chairman, Allan Peterson.

OTHERS PRESENT: Charleen Greenhalgh; Katie Tenaglia; Steve Gopoyan; Swavi Osev; Andrew Singer; Shannon Goheen; Cyndi Williams; David Reid; Daniel Croteau; Carol Porter; Thomas Mulcahy; David Michniewicz P.E., Mike Sharet, Bill Ganshirt, George Gakidis, and David Hawk as well as others.

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

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

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

Representatives: Andrew Singer, Dan Croteau, and Shannon Goheen

Ms. Maslowski recused herself from the hearing.

Chairman Berry re-opened the hearing by reading the legal notice into the record. Applicants seek approval of a Site Plan Review Special Permit and a Use Special Permit with waivers, pursuant to the Code of Town of Harwich §§325-13, ¶IV Line 30, -55 and -51 to construct a miniature golf course and expand and improve the parking and vehicle access. The property is located at 346 Route 28 and 0 Sisson Road, Maps 21, Parcels N1 & N2, respectively, in the C-H-1 and R-M zoning districts. Continued from 8/25/20.

Andrew Singer began the hearing by explaining that the applicants are seeking permission to redevelop a portion of the property to develop a mini-golf course. The property will be preserved and enhanced. The proposal will remove boat storage, vehicles, trailers, soil, and other materials. There will be a net decrease in the square footage of the property used for outside commercial space in both zoning districts. The wooded area along the hill will be retained. Storm water management will be upgraded. The proposal will be in keeping with the character of the neighborhood. Lighting will comply with the Harwich lighting regulations, and there will be no

impact to the neighbors. The proposal is for a seasonal use on a piece of land that already contains similar, seasonal, recreational uses and will not create any nuisance, hazard, or congestion to the neighborhood or neighboring properties. The last ticket sale will end at 10 PM, and during the off season is 7 PM. The site will be dark most of the year. This is an outside use, and is weather dependent. The season is limited.

Shannon Goheen presented the landscape plan, and discussed the design goals. They will be planting 40 white pines. The base of the wooded slope will completely screen everything that is being proposed tonight. Pines will keep growing and continue to provide screening. All native plants will be used.

Mrs. Greenhalgh read comments from other Boards, Departments, and Committees into the record. Health: The Health Department has no concerns with the change in use. The Health Department will require a passing Title 5 inspection, as well as a Disposal System Construction Permit to connect the proposed restrooms to the existing septic system. Both of these action items need to be completed prior to Building Permit approval. Fire: Looks great! Fire Department endorses the plan, no issues. Building: No Concerns. Police: The only Police Department comment from the beginning of this was improvements at the entrance on Sisson Road which appear to have been shown adequately on the plans. Conservation: The Conservation Commission approved an application for the proposed golf course on January 10, 2020 as some of the property is in a Flood Zone which is Conservation jurisdiction. When reviewing the Planning Board filing it was noted that the plans do not fully match what was approved by the Commission. The Assistant Conservation Agent does not foresee the Commission having any issues with the revisions, but a request for a change in the approved plans needs to be done in order for all departments and involved parties to be operating off the same set of plans. Engineering: Please refer to Planning Staff Comments below. The site will require a Storm water Discharge Permit. Water: The plans don't identify a proposed water service to the new ticket window/restroom building. That said, the Antique Store & Go-Carts both have town water so they may be installing a water service from one of the other buildings which wouldn't involve HWD. DPW: The DPW has no concerns with the plans. Please be advised that public safety has requested, and DPW is pursuing, the removal of the raised island in front of the Star Market where the tanker rollover occurred. The DPW Director is in the process of setting up a site visit with Steve Tupper (Cape Cod Commission) given the island was originally constructed as part of a Development of Regional Impact for the Star Market plaza. It is also an insurance matter, which further complicates things.

Planning Staff Comments: 1. Town Staff met with the applicant for an initial review prior to file applications with the Town. The Town Engineer and Town Planner have met on at least three occasions to review the various iterations of plans. To date the questions and/or concerns that were raised have been addressed. 3. Storm water will be fully addressed by the Town Engineer through the Storm water Discharge Permit process. 4. The proposed miniature golf and related parking does cross a lot line. The parcels should be combined prior to the commencement of any work on the property. In the alternative, an easement may be in order. 5. The rear portion of the property is located within the R-M Zoning District. A use variance from the Zoning Board of Appeals was granted. 6. Several conditions are recommended for primarily for the Site Plan Special Permit, and include but are not limited to: a. 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, including a Storm water Discharge Permit. b. Prior to commencement of any work on the subject site, the two parcel shall either be combined by an Approval Not Required Plan or an Easement Agreement or some other legal agreement shall be executed. Neither document shall be valid nor work commence until said document is recorded at the Barnstable County Registry of Deeds and a copy of said document is filed with the Harwich Town Clerk and the Harwich Planning Board. c. All Zoning Board of Appeals, Conservation Commission and Board of Health requirements shall be adhered to. d. Signage shall comply with the requirements of the Code of the Town of Harwich and the Building Department. e. Lighting shall comply with the requirements of the Code of the Town of Harwich. f. Any changes to the site plan, other than those resulting from MassDOT review and approval, shall be subject to further Planning Board review and approval. g. This decision shall be recorded at the Barnstable Registry of Deeds prior to the issuance of a building permit. 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. 7. As of September 1, 2020, three letters of concern were received, copies are attached hereto.

Mr. Harris asked if the ZBA decision is for use, or for the flood plain. Mrs. Greenhalgh clarified that it is for use. Conservation approved the portion within the flood plain.

Mr. Osev clarified that originally when the project was proposed to Conservation two 18-hole courses were proposed, and now they are only proposing one.

Mr. Stoltz asked what sized the red maple and cedar trees will be when planted. Ms. Goheen stated that the red maples will be approximately 8-10 feet at the time of planting, and the cedar trees will be about the same.

Mr. Chadwick had questions related to the storm water discharge permit. Mrs. Greenhalgh stated that Griffin Ryder, the Town Engineer, would hold a hearing and abutters would be notified. Mr. Chadwick stated that water pools at the end of Harold Street. Any stormwater would need to be taken care of on the site. Mr. Chadwick asked several other questions, all which were answered.

Mr. Stoltz asked if the lighting will shut off automatically on a timer. It was responded that the lights will likely be shut off by employees. During the summer 11:30 PM will most likely be the absolutely latest. Mr. Stoltz asked if it is a down force lighting. It was responded yes.

Mr. Harris asked for clarification on the hours of operation. It was responded that in season tickets will be sold until 10 PM, and it will take people approximately an hour to finish the course.

Mr. Rouse asked if food will be served. Mr. Singer replied that there will be no food service, but potentially chips.

Mr. Berry stated that there were three letters in support of the application and three letters opposed to the application. These are available in the case files.

Attorney David Reid is representing Beach Plum Condos. He stated that they have opposed this project since the beginning. The use variance was granted from the Board of Appeals, however they have remaining concerns. The landscape scanned plan online is so light it is unreadable. The height of the proposed white pines are a concern. What is that mature and planting height?

Ms. Goheen stated they will be starting at about 10-12 feet, and they grow quite quickly. Mr. Reid commented that the landscape details have not been included in the site plan. He addressed some of the conditions, and made requests to change some of the conditions.

Mr. Gopoyan stated that as far as the hours of operation, this will be a seasonal business. They are doing their best to accommodate everyone. It is like a restaurant, even if you close at 10, people will stay a little later. This is only during peak season. The go-cart tracks will still be going past that time.

A lengthy discussion ensued. Mr. McParland stated that he would like to continue the meeting to allow for the Town Planner to refine any proposed conditions.

Mr. McParland made a motion to continue the hearing to October 6, 2020 no earlier than 6:30 PM, seconded by Mr. Harris, unanimously so voted via roll call (6-0-0).

Ms. Maslowski returned to the meeting.

PB2020-23 Wychmere Harbor Real Estate LLC, Amend Site Plan Review Special Permit & Special Permit, 23 Snow Inn Road

Representative: Andrew Singer, Esq.

Chairman Berry opened the hearing at 7:40pm by reading the legal notice into the record. Applicant seeks to amend a Site Plan Review Special Permit and a Special Permit for a structure greater than 7,500 s.f. granted in Case PB2019-27, or in the alternative a new Special Permit, to make alterations to the previously approved design at the north and south ends of the replacement restaurant building as well as reducing the size of the gatehouse building and accompanying landscape revisions. The application 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.

Andrew Singer began the hearing by explaining that the Planning Board granted a special permit authorizing upgrades to the beach club facilities at the southern end of the Wychmere Harbor Beach Club Property in Case No. PB2019-27. The Applicant is requesting an amendment to this approval to reflect changes shown on the submitted plans and described below. There will be no change in the existing use. The proposal will enable a better operational use of the replacement restaurant building and Beach Club portion of the Property and will result in additional environmental benefits to the adjacent wetlands and buffer zones. The Board of Appeals and Conservation Commission have each approved the amendment request. The amendment proposal includes the following: 1. Square off south end of the replacement restaurant building

by pulling back from the west and south property lines and extending easterly to match eastern side of the building; 2. Extend the entry octagon and neck at the north end of the replacement restaurant building, including a roof overhang and an increase in the height of the octagon roof only by 4.5 feet to remain conforming to the height limit in the Zoning By-Law. The approved height of the remainder of the replacement restaurant building will remain as approved. The size of the approved replacement restaurant building will increase by a net 129 sq. ft. over that approved; 2 3. Re-use, relocate, and re-orient the existing gate house entry building to the Beach Club in lieu of the approved, larger new gate house entry building 4. Widen the entry circle within existing radius of the circle (reduce center island) to improve emergency vehicle access as well as re-align the drive into the entry circle to be direct north-south in approach in lieu of former angle; 5. Re-align and redesign the walkways and stairs into the pool area at the east side of the replacement restaurant building, while maintaining ADA-compliant access; 6. Eliminate the two southerly infinity edges of the two southerly pools to comply with State regulations and replace with walkways around both pools; and 7. Make corresponding adjustments to locations and design of planters, walkways, etc. within the beach club fences.

Mrs. Greenhalgh read comments from other Boards, Departments, and Committees into the record. 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. A new grease trap is also needed, and will need to be permitted through DEP. 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. The infinity pool does not meet this criteria, and will not be approved. Fire, Police, Water & Highway: No issues or concerns. 6 Conservation: Review and approvals were received by the Conservation Commission. Engineering: The Town Engineer reviewed the plans with the Town Planner; comments are noted below. Planning Staff Comments 1. The infinity pools and spa pool have been change to typical pools. 2. As noted, the Town Engineer and Town Planner met to review the various revised plans and application. Several questions arose, and on August 27, 2020 the Town Engineer met with the applicant and representatives on site to discuss the Storm water Discharge Permit and the Town Planner met with the applicant and representatives on site on August 31, 2020 to review the latest set of revised plan. 3. The Conservation Commission did approve the portion of this project that falls within its jurisdiction. 4. Zoning Board of Appeals approved a Special Permit on January 29, 2020 and an amended/modified Special Permit on August 26, 2020. 5. The building plans for the "Coastal Building" are not changing from what was approved pursuant to PB2019-27. 6. An amended Site Plan and Use Special Permit are recommended as opposed to new Special Permits. 7. Standard conditions with respect to the Site Plan Special Permit are recommended, including, but not limited to compliance with Zoning Board of Appeals, Health Department, Conservation Commission and Storm water Discharge Permit requirements.

Mr. Harris made a motion to close the public hearing, Mr. McParland seconded.

Mr. Singer clarified that the hearing needs to be opened to public to comment. Mr. Harris withdrew his motion.

Chairman Berry opened public comment, but no comments were made.

Mr. Harris made the motion to close the public hearing at 7:51pm, seconded by M. McParland, unanimously so voted (7-0-0)

On a motion from Ms. Maslowski, seconded by Mr. Harris, 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. 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 and #2020-32.
2. The Conservation Commission approved the changes within conservation jurisdiction pursuant to MA DEP SE32-2383 and SE32-2387.
3. The height of the proposed Beach Grill is within the height limitations of the Zoning Code.
4. Building coverage limitations have not been exceeded; 15% is allowable and 11.5% is proposed.
5. The restaurant building has a net increase of 129 square feet over the previously approved building.
6. No changes to the Coastal Bar are proposed.
7. The existing gate house entry building will be re-used and relocated.
8. Amenity and site coverages have decreased slightly.
9. Green space coverages have increased slightly.
10. The use as developed will not adversely affect the neighborhood.
11. The specific site is an appropriate location for such a use, structure or condition.
12. There will be no nuisance or serious hazard to vehicles or pedestrians.
13. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

On a motion from Ms. Maslowski, seconded by Mr. McParland, the Board voted unanimously (7-0-0) by rollcall vote to approve case number case PB2020-23 Wychmere Harbor Real Estate LLC to amend a Special Permit for a structure greater than 7,500 s.f. granted in Case PB2019-27 to make alterations to the previously approved design at the north and south ends of the replacement restaurant building as well as reducing the size of the gatehouse building 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. 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 a motion from Ms. Maslowski, seconded by Mr. McParland, the Board voted unanimously (7-0-0) by rollcall vote to approve with conditions case number PB2020-23 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 PB2019-27 to make alterations to the previously approved design at the north and south ends of the

replacement restaurant building as well as reducing the size of the gatehouse building and accompanying landscape revisions for the 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 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: All Zoning Board of Appeals and Conservation Commission requirements shall be met.

- A. 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.
- B. 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.
- C. All signage shall comply with the Sign Code and Building Department Requirements.
- D. All lighting shall comply with the Lighting Code Requirements.
- E. All drainage and storm water requirements, local, state and federal, shall be met and approved by the Harwich Town Engineer.
- F. This decision shall be recorded at the Barnstable Registry of Deeds.
- G. 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.

MEETING MINUTES: August 25, 2020

Mr. Harris made the motion to approve the minutes from August 25, 2020, seconded by Mr. McParland, unanimously so voted via roll call.

BRIEFINGS AND REPORT

Mrs. Greenhalgh stated the Cape Cod Commission approved the language as compliant with the West Harwich DCPC.

Mr. McParland asked at what point the meetings will be in the Town Hall. Chairman Berry replied that it is in the hands of the governor. Mrs. Greenhalgh explained the Health and Safety reasoning why it will likely remain remote for quite a while. A discussion ensued.

ADJOURNMENT:

Mr. McParland made the motion to adjourn at 8:05 PM, seconded by Mr. Chadwick, unanimously so voted via roll call.

Respectfully Submitted,
Kathleen A. Tenaglia, Board Secretary

Adopted: September 22, 2020