

HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH
VIA REMOTE PARTICIPATION GoToMeeting.com
TUESDAY MARCH 9, 2021 – 6:30 PM
MEETING MINUTES

BOARD MEMBERS PRESENT: Chairman, Duncan Berry; Vice-Chairman, Allan Peterson; David Harris; William Stoltz; Arthur Rouse; and Craig Chadwick. Mr. Harris arrived at 6:41 PM, Ms. Maslowski arrived at 7:26 PM. All were all present via remote participation.

BOARD MEMBERS ABSENT: Joe McParland.

OTHERS PRESENT: Meggan Eldredge; Katie O’Neill; Dan Croteau; Patricia Tworek; William Crowell; Paul Soucy; Christopher Pepe; Rick Don; Susan Ladue; and others

CALL TO ORDER - 6:33 PM by Chairman Berry with a quorum present.

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

PB2020-24 195 Queen Anne Road, LLC, 195 Queen Anne Road, Site Plan Review Special Permit
Representative: Daniel Ojala

Chairman Berry opened the hearing at 6:35 PM by reading the legal notice into the record. 195 Queen Anne Road, LLC, as applicant, George A. McLaughlin III, as manager, Chairman Berry opened the hearing at 6:35 PM by reading the legal notice into the record. Daniel A. Ojala, P.E., P.L.S., as representative, seeks approval of a Site Plan Review Special Permit and a Special Permit for structures with a gross floor area > 7,500 SF and 20 or more new parking spaces pursuant to the Code of the Town of Harwich §325-55 and §§325 9 and -51 to construct an industrial warehouse/contractor structure (7 bays, 9,000 sf). The property is located at 195 Queen Anne Road, Map 58, Parcel F1-2, in the I-L zoning district. *Hearing Continued from January 12, 2021. Please note: the applicant has requested a continuance to March 23, 2021.*

Vice Chairman Peterson made the motion to continue the hearing to March 23, 2021 no earlier than 6:30 PM, seconded by Mr. Chadwick, unanimously so voted via roll call.

PB2021-02 Richton Investment LLC, 11 Route 28, Waiver of Site Plan and Retain Use Special Permit with Waivers
Representative: William Crowell

Chairman Berry opened the hearing at 6:37 PM by reading the legal notice into the record. Richton Investment LLC, owners, Christopher Pepe, tenant, William D. Crowell, Esq., representative, seek approval of a Waiver of Site Plan and Retail Use Special Permit with waivers pursuant to the Code of the Town of Harwich §325-55.F, -149 and -152.B to convert the pre-existing, non-conforming restaurant and operate a bait and tackle shop under 1,000 SF in a non-historic structure. The property is located at 11 Route 28, Map 10 Parcel N3, in the CH-1, RH-1 and the West Harwich Special District (WHSD) zoning districts.

William Crowell began the hearing by explaining the proposed application. Chris Pepe, Rick Don, and Dan Croteau are also present. Mr. Crowell stated that this is the first case since the DCPC went into effect last fall. This is not a good case to have as a first case. This is not a historic building. This will not fit into one hole or another. This was the old friendly's building. This is located just before Dennisport. It was Vieira for the last several years. The building was built in 1975, this is not historic. This structure was not a target of this district. They are hoping to work with the Board to take a pro-business approach. This will be a bait and tackle shop. Fishing season is starting soon. The herring will be starting soon, and that brings the striped bass. They are asking for site plan special permit waiver by the Board. They have not submitted a site plan because they are asking for a waiver. No changes to the building are being proposed. It is what it is. It would cost about \$5,000 to submit a site plan with all of the required items. A bait and tackle use will be a much less intense use than a restaurant. There are more than adequate parking for this use. Additionally, they are asking for change of use from restaurant to retail. Both are allowed under CH1 district. A restaurant is allowed by a special permit, retail is permitted by right. This is a less intensive use. They wouldn't be there without the overlay district that was approved last fall. This is a commercial use. It's not being changed. They don't need a special permit, but they would submit that they are not in excess of 1000 square feet of retail area. This is a reduction in intensity. This does not meet all of the dimensional exactly, but the Board can waive or modify these requirements if it does not derogate from the bylaw. The board could have latitude because it does not derogate from the purpose of the bylaw. A letter from an abutter was submitted today. He then read the letter of support into the record.

Mr. Harris arrived remotely at 6:41 PM.

Ms. Eldredge read departmental input and the Town Planners report into the record. Comments from other Boards, Departments, Committees Health: The Health Department will require that a passing Title 5 inspection be submitted prior to building permit approval, due to the change of use. Fire, Police, Conservation, DPW/Highway: No concerns or issues. Engineering: See Planning Staff Comments. Planning Staff Comments 1. On February 9, 2021 the Town Engineer and Interim Town Planner met to review the application and plans. Based on that review the following comments/questions were sent to the applicant's representative, Attorney William Crowell: a) An additional fee for \$315 is required as the request is for two different items (waiver of site plan and use special permit). b) The site plan as submitted is not adequate, in part it is well over 35 years old and is not legible. c) Additionally, there is no zoning compliance table and no parking compliance table. d) The floor plan as submitted is not adequate. e) The entire building is changing from a restaurant use to retail sales, including storage for retail sales, well in excess of 1,000 s.f. Within the parking requirements, (325-39. A. – 'Commercial Uses' schedule) only 30% of the floor area can excluded for storage area for the purposes of determine the required number of parking spaces. f) No municipal lien certificate was filed. As of the morning of March 2, 2021, these items have not been addressed. 2. The application request is for a waiver of site plan and a Special Permit for retail in excess of 1,000 s.f. It is clear in the bylaw (provided above) that retail over 1,000 s.f. required a Site Plan Review Special Permit. To confuse matters further, the narrative speaks to using only 950 s.f. for the retail use. 3. The waiver request is not reasonable, as this is a commercial use and site and should be treated as such. 4. At this time staff recommendation is to: a) Continue the public hearing to a date and time certain to allow the applicant additional time to provide the necessary and require information; or, b) Procedurally deny the application as it is incomplete. 5. Alternatively, the applicant may also request a withdrawal without prejudice of the application.

A lengthy discussion ensued.

Mr. Croteau stated that this is a challenging property, as there is no recorded site plan for this, or recorded site plans on either side. That makes it very challenging. The deed doesn't refer to a plan. The survey is a tough piece of land to give the setbacks required with the chart. That's why the survey

compliance chart isn't completed. The parking is enormous for the amount of parking. The parking for retail is 1 spot per 150 square feet. This space would need 8 parking spots. Two handicapped spots to the west are shown, and two to the east are shown.

Patricia Tworek stated that she wasn't sure the parking would be part of this process. The library is a landlocked library. The business has always allowed their patrons access to the library. This is good for the board to understand.

Ms. Maslowski arrived at 7:26 PM.

Ms. Maslowski clarified that she is not sure if this is appropriate for a waiver of site plan, as this is in the DCPC.

Mr. Crowell responded, a lengthy discussion ensued.

Paul Soucy recently purchased another Harwich Bait and Tackle Business, stated that he did all the requirements prior to this fishing season. They completed everything in a tiny area. The storage area is not included in the square footage.

A lengthy discussion ensued.

Vice chairman Peterson made the motion to close the hearing at 7:52 PM, seconded by Mr. Chadwick, unanimously so voted via roll call. With the exception of Mr. Harris and Ms. Maslowski who were not eligible to vote.

Waiver of Site Plan

Mr. Peterson made a motion seconded by Mr. Chadwick to grant a temporary Waiver of Site Plan to expire concurrently with any Use Special Permit which may be granted for application of PB2021-02. The roll call vote was unanimous (5-0-0).

Temporary Use Special Permit

Mr. Peterson made a motion seconded by Mr. Chadwick to grant a temporary Use Special Permit with waivers pursuant to the Code of the Town of Harwich, MA §§325-55.F, -149 and -152.B to operate a bait and tackle shop under 1,000 SF and is subject to the following conditions:

Conditions of Approval

1. The temporary retail Use Special Permit shall expire no later than November 30, 2021.
2. Any and all regulations for the Board of Health, Conservation Commission or any Town department shall be met.
3. The temporary Use Special Permit shall be recorded at the Barnstable County Registry of Deeds.
4. No extension or continuance of the underlying retail Use Special Permit shall be granted by this Board without a Site Plan drafted to current standards and to scale to include a zoning compliance table.

The roll call vote was unanimous (5-0-0).

All Votes via Roll Call:

IN FAVOR: Stoltz, Peterson, Berry, Rouse, Chadwick
OPPOSED: None
ABSTAIN: None

PB2021-03 Deerfield Nominee Trust, Amendment to Site Plan Review Special Permit and Use Special Permit for Manufacturing

Representative: Susan Ladue

Chairman Berry opened the hearing at 8:10 PM by reading the legal notice into the record. Deerfield Nominee Trust, William Marsh, TR., as owner, seeks approval of amendment to a Site Plan Review Special Permit and for a Use Special Permit for manufacturing (2-bays) pursuant to the Code of the Town of Harwich §325-51 and -55. The property is located at 4 Deerfield Road, Map 45 Parcel T1-7 in the I-L zoning district.

Susan Ladue began the hearing by explaining the proposal. This was originally approved in 2019. They currently have three tenants. The floor plan and as-built has been submitted, as well as the change of use proposal. They are requesting a change of use for one bay. The building is constructed on a slab, not a basement. A gravel bed has been constructed as a landscape component as well as drainage. The foundation landscape beds were not installed as it was neater to pave up to the building. The striping is as proposed. A berm was installed per the details of the original site plan. Additional lights have been installed. This is a safer site, and it does comply with the lighting code. The parking was explained.

Ms. Eldredge read the departmental input and town planners report into the record. Comments from Other Boards/Committee/Departments Police, Highway and Fire: No concerns. Health: The septic system capacity is designed for 138 gallons of flow per day. As long as that is not being exceeded, health has no issues. Engineering: See Planning Staff Comments below. Planning Staff Comments 1. The Town Engineer and Interim Town Planner reviewed the application and plans on February 9, 2021. An email was sent to the applicant's representative, Susan Ladue. At this time all the questions and comments raised in that email have been addressed. Staff has no concerns with this application. 2. The narrative provided by Susan Ladue explains the changes within site and the proposed use. Again, staff has no concerns with this application. 3. The following conditions are recommended for the Use Special Permit: a. The Manufacturing Use is specific to "Unit 2" as shown on the floor plan. Unit 2 is located in the center of the building. b. No outside storage of any goods, materials or equipment shall be stored outside of the building. c. This decision shall be recorded with Land Court. 4. The following conditions are recommended for the amended Site Plan Review Special Permit: a. All conditions and other requirements imposed pursuant to case PB2019-36, and as recorded as Doc: 1,284,979 in Land Court, shall be adhered to. b. This decision shall be recorded with Land Court.

Mr. Chadwick had questions regarding dust collection, Ms. Ladue stated that it will meet the standard of what is required, but she doesn't know exactly what that would be.

Mr. Chadwick asked for an exhaust for painting or staining. Will there be equipment outside to address those issues. Mrs. Ladue stated she doesn't know the exact answer, but they will be complying with all the requirements.

Ms. Maslowski asked why they are limiting the manufacturing use to only unit 2. Ms. Ladue stated that they only have one specific tenant. A discussion ensued regarding use.

Mr. Harris questioned the lack of dumpster and waste requirements, which were answered by Ms. Ladue.

Mr. Stoltz thought that the dust collection system should be on the inside of the building.

Mr. Harris asked if that would be the jurisdiction under the planning board, or another department of the town.

A lengthy discussion ensued.

Mr. Harris made the motion to close the public hearing at 8:28PM, seconded by Mr. Chadwick, unanimously so voted via roll call.

Findings

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

1. The property is within the IL zoning district.
2. Deerfield Road provides for adequate access.
3. Two 50' curb cuts are proposed, with a landscaped island separating the two curb cuts.
4. The parking is based on Warehouse use.
5. The building received a variance from the rear setback requirement to allow for 25 feet pursuant to ZBA Case No. 2019-26, L.C. document 1,377,700.
6. The plan provides for efficient and safe disposal of surface water.
7. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
8. There will be no nuisance or serious hazard to vehicles or pedestrians.

Use Special Permit

On a motion by Ms. Maslowski, seconded by Mr. Harris, the Board voted unanimously (7-0-0) by roll call to **approve with conditions case PB2021-03** Deerfield Nominee Trust, William Marsh, TR., for a Use Special Permit for manufacturing (specifically Unit 2), pursuant to the Code of the Town of Harwich §325-51 and -55, for new construction of a 5,845 SF metal structure for industrial use for property located at 4 Deerfield Road, Map 45, Parcel T1-7 in the I-L zoning district. 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. The following conditions are imposed:

Conditions of Approval:

1. The Manufacturing Use is specific to "Unit 2" as shown on the floor plan. Unit 2 is located in the center of the building.
2. No outside storage of any goods, materials or equipment shall be stored outside of the building.
3. Any dust collection system be contained within the building.
4. All conditions and other requirements imposed pursuant to case PB2019-36, and as recorded as Doc: 1,284,979 in Land Court, shall be adhered to.
5. This decision shall be recorded with Land Court.

Site Plan Review Special Permit

On a motion by Ms. Maslowski, seconded by Mr. Harris, the Board voted unanimously (7-0-0) by roll call to **approve with conditions case PB2021-03** Deerfield Nominee Trust, William Marsh, TR., for an amended Site Plan Review Special Permit for minor site changes from the previously approved site plan, PB2019-36, and for manufacturing (Unit 2) pursuant to the Code of the Town of Harwich §325-55 for the property located at 4 Deerfield Road, Map 45 Parcel T1-7 in the I-L zoning district. 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:

Conditions of Approval:

1. All conditions and other requirements imposed pursuant to case PB2019-36, and as recorded as Doc: 1,284,979 in Land Court, shall be adhered to.

2. This decision shall be recorded with Land Court.

All Votes via Roll Call

In Favor: Peterson, Maslowski, Stoltz, Chadwick, Berry, Harris, Rouse
Opposed: None
Abstain: None

MINUTES: February 23, 2021

Vice Chairman Peterson made the motion to approve the minutes from February 23, 2021 as written, seconded by Mr. Chadwick, unanimously so voted via roll call.

CONTINUED DISCUSSION ON WEST HARWICH SPECIAL DISTRICT DESIGN GUIDELINES

Chairman Berry did not get an opportunity to get the ultimate language for the design guidelines. He will be meeting with Sara Korjeff on Friday morning, and they will have a document hopefully for the next meeting. They will also have visuals within two sides of one sheet of paper. It's very compact and functional.

BRIEFINGS AND REPORTS BY BOARD MEMBERS

Ms. Maslowski stated that the CPC articles will be on the town warrant. Any support is greatly appreciated.

ADJOURNMENT:

Vice Chairman Peterson made the motion to adjourn at 8:37 PM, seconded by Mr. Chadwick, unanimously so voted via roll call.

Respectfully Submitted,
Kathleen A. O'Neill

Adopted: April 27, 2021