**Harwich Planning Board**

**Town Hall, 732 Main Street, Harwich, MA**

**Meeting Minutes**

**Tuesday, August 23, 2022**

**Board Members Present:**ChairDuncan Berry; David Harris, Craig Chadwick, William Stoltz, Mary Maslowski, Emily Brutti and Anne Tucker.

**Board Members Absent:**

**Others Present:** Meggan Eldredge (Assistant Town Administrator), David Spitz Planning Consultant

**Call to Order**: Mr. Berry called the meeting to order at 6:30pm having established a quorum. Pledge of Allegiance recited.

**Public Hearings:**  
**PB2022-15 Main Street HP, LLC**

Mr. Berry opened by reading the notice and the Board will be using the Mullen rule to have Ms. Maslowski participate and vote in the case.

Greg Siroonian introduced himself, Dennis Miller, property owner and Tim Santos, Site engineer of Merrill Associates and discussed the changes made to the case, including improving parking by 3 spaces by adding spaces to 596 Route 28 and rearranging the parking on site, totaling 56 spaces. A Special Permit request has been added for the coffee shop to be fast food and a waiver for zero setback for the parking. He discussed south facing elevation and bedroom count changes, fencing and landscaping details, and clarified restaurant seating on the plan. He further discussed parking specifics for the proposed uses.

David Spitz, Planning consultant, introduced himself and discussed his consultant’s report, noting the improvement made to south facing elevation and supported the waiver for 13 parking spaces, but stated it’s up to the Planning Board, who knows the community, to determine if its acceptable. He discussed the conditions of approval and findings, as written in his report, relating to parking which included a parking easement for 571 Route 28 and a curb radius. He mentioned a letter from an abutter requesting landscaping around the parking area closest to Route 28 to help beautify the project.

The Board and the applicant discussed if there is some way to camouflage the parking area most visible from the road, and how delivery trucks will maneuver in the lot.

Ms. Tucker asked if the applicant asked Heather’s Hair Port to lease parking space.

Mr. Miller responded Heather is not ready to commit to any leased parking on her property at this point.

The Board and the Applicant discussed the easement regarding the Beachside Condo Association at 569 Route 28.

Attorney William Crowell, representing Mr. Miller and his entity that owns the property in question and is researching the easement and information in Attorney Reeds letter. He requested the Board add a condition to obtaining an occupancy permit for 575 Route 28 that the easement issues with 569 Route will be worked out so there is no time constraints on either side and the case is not further continued.

The Board, Mr. Spitz and the Applicant continued to discuss park specifics, including where the residential parking and handicapped parking will be located.

Mr. Berry opened the meeting for public comment.

Dave Logan, 580 Route 28 and trustee of Setucket Village, discussed traffic, safety and noise concerns. He requested a crosswalk where ShoreBird Interiors is currently located. He asked what the plan would be in the parking waivers were not approved. He has concerns about a constant in and out flow of traffic and requested a study be done with current data that includes summer traffic. He also requested no live music, no open bar facing the street, no fast food chains be allowed and no expansion of the food service into the retail spaces in the future. He provided the Board with his letter.

The applicant and the Board discussed Mr. Logan’s requests and stated a crosswalk is outside the purview of the Planning Board. Mr. Spitz suggested the applicant request the crosswalk with the State and the applicant agreed. The Board also stated live music is approved by the Selectman.

Cindy Williams, Executive Direction of the Chamber of Commerce, stated she will reach out to Senator Cyr regarding the crosswalk.

Corrine Hemway, resident of Setucket Village, asked about the offset hours of the offset hours because the business hours will overlap.

The Board and Mr. Spitz discussed the hours of operation for the food service operations and how it will affect parking.

Barbara Nickerson, of Harwich Port, discussed her letter which expressed her concerns about traffic, parking and aesthetics. She requested an up to date traffic study.

Bob Cohn, Pleasant St, discussed his e-mail and had concerns about parking, traffic and number of seats in the restaurant.

Bob Nickerson, of Harwich Port, stated Heathers Hair Port is always full in the evening.

Ms. Williams stated her support for the project.

The Board, Mr. Spitz and Mr. Miller continued to discuss the food service hours and the parking waiver.

The Board, Mr. Spitz and Mr. Miller discussed restricting delivery and trash pickup times to after 7am.

Barbara Nickerson stated Ember has trash picked up at 5am and is still concerned about the project evolving into something bigger, like what happened with Perks.

The Board discussed whether or not they have enough information to move forward with a vote tonight.

Mr. Chadwick asked about the 2 mature trees being removed in the Southwest corner and if there is a possibility for them to stay.

Mr. Dennis responded that area will be used for parking but he will make every effort to keep the trees if possible.

The Board discussed whether or not a landscape plan is required.

Attorney Crowell suggested, given his experience with similar projects, the Board make a decision tonight.

The Board continued to discuss whether or not they have enough information to move forward with a vote tonight and discussed specifics of a potential crosswalk, parking and the easement with 569 Route 28.

Ms. Maslowski moved to close the public hearing. Seconded by Mr. Harris. Vote 7- 0. Motion carries; public hearing closed.

No further discussion from the Board

Ms. Maslowski moved to approve the following findings:

1. The subject property at 575 Route 28 is approximately 29,800 square feet and is located within the Commercial Village (C-V) Zoning District.
2. The property fronts on Route 28 and is permitted to utilize the provisions of the Village Commercial Overlay District (VCOD) Special District bylaw (§325-51.L).
3. The applicant filed an application on May 19, 2022 for the following Special Permits: Site Plan Review Special Permit (§325-55) for commercial and other uses, Village Commercial Overlay District (§325-51.L), Mixed-use development (§325-51.M), and structures with greater than 7,500 square feet of gross floor area or requiring more than 20 new parking spaces (§325-9). Subsequently the applicant amended the list of requested Special Permits to include a fast food/takeout restaurant (§325-14.O).
4. Plans and documents (application, waiver narrative) submitted in support of the application are as follows:

Stamped Site Plan Set, #575 Route 28 (Main Street), Harwich, Massachusetts, prepared by Merrill Engineers and Land Surveyors, dated May 19, 2022 with revisions through August 12, 2022, inclusive of the following sheets:

* 1. Layout Plan, Sheet 1 of 8
  2. Existing Conditions Plan, Sheet 2 of 8
  3. Grading & Drainage Plan, Sheet 3 of 8
  4. Septic & Utilities Plan, Sheet 4 of 8
  5. Construction Details, Sheet 5 of 8
  6. Construction Details, Sheet 6 of 8
  7. Construction Details, Sheet 7 of 8
  8. Demolition & Erosion Control Plan, Sheet 8 of 8

Stamped architectural plan set, 575 Route 28, Harwich Port, MA, prepared by RESCOM Architectural Inc., dated 5-19-22 with revisions through 08-18-22, inclusive of the following sheets:

* 1. Landscape Plan, Sheet L1.0
  2. Lighting Plan, Sheet L1.1
  3. First Floor Plan, Sheet A1.0
  4. Second Floor Plan, Sheet A1.1
  5. Foundation Floor Plan, Sheet A1.2
  6. Building Elevations, Sheet A1.3
  7. Signage Elevations, Sheet A1.4
  8. Site Photos, Sheet A1.5
  9. Conceptual Aerial Photo, Sheet A1.6

"Drainage Report, 575 Route 28 (Main Street), Harwich Port, MA, dated May 19, 2022, prepared by Merrill Engineers and Land Surveyors.

Traffic Assessment, Proposed Redevelopment, 575 Route 28, Harwich, Massachusetts, dated May 19, 2022, prepared by VHB.

Two letters from Attorney William D. Crowell including attachments related to an access and parking easement for 569 Route 28.

1. The Planning Board opened and held a duly noticed hearing on July 26, 2022 as mutually consented by the parties and continued the hearing until August 23, 2022.
2. The Planning Board is the granting authority for the requested Special Permits and may grant approval if it finds the application satisfies the requirements of §§325-51.A, 325-51.B and the relevant provisions for each individual special permit request.
3. The Planning Board may waive or modify the dimensional requirements of the Village Commercial Overlay District under the provisions of §325-51.L(5)(h).
4. The property is currently unimproved except for several parking spaces used by tenants/lessees at 571 Route 28 (Assessor’s Map 14, Parcel V14).
5. The applicant proposes to construct a structure with 11,940 gross square feet on two levels. The structure also contains a basement area.
6. Proposed uses are two 1,000 square foot retail units, one 850 square foot fast food restaurant with 20 seats, one 3,000 square foot restaurant with 100 seats, and five one-bedroom residential units. The basement area will be used for storage and utilities.
7. The applicant has submitted parking calculations indicating the following number of spaces required by the Harwich Zoning Bylaw: 10 spaces for two retail stores, 8 spaces for five residential apartments, 35 spaces for a 100-seat restaurant, and 13 spaces for a 20-seat fast-food/takeout restaurant. Additionally, 8 spaces are indicated for current use on the abutting 571 Route 28 parcel. The applicant indicates that 74 total parking spaces are required.
8. The applicant’s plans depict 56 total parking spaces including 29 spaces located solely on 575 Route 28, 9 spaces crossing the property line between 571 and 575 Route 28, and 18 spaces on 569 Route 28.
9. The applicant has requested a waiver of 18 parking spaces with 13 of those justified by “offsetting hours” of the two restaurants. The applicant has stated that the fast-food/takeout restaurant will close at 4 pm daily except during the weekly Harwich Port Music Stroll on summer evenings. The applicant also has stated that the larger restaurant will primarily operate during evening hours. This restaurant also may operate during lunch hours, but the applicant has stated that this usage should be less than in the evening. A waiver of 13 parking spaces is reasonable to reflect different peak hours of use for the two restaurants.
10. The remaining waiver of 5 parking spaces is reasonable for a mixed-use development in a village setting.
11. The applicant amended the original application for 575 Route 28 to include two properties at 569 and 571 Route 28. 569 Route 28 is approximately 7,500 square feet and is currently unimproved. 571 Route 28 is approximately 13,500 square feet and has three structures. Both parcels front on Route 28 and may utilize the VCOD bylaw.
12. The amended plan set includes the layout of parking areas and connecting walkways on those parcels along with individual zoning compliance requirements for all three parcels.
13. A letter from the project attorney states that 569 and 571 Route 28 will be separately owned and that the parking spaces on those parcels will be made available for use of proposed development on 575 Route 28 via fee-based agreements for as long as the Planning Board requires a credit for such spaces. An executed copy of those agreements in a form satisfactory to Harwich Town Counsel will be submitted prior to issuance of an occupancy permit for development on 575 Route 28.
14. The parking spaces on 569 Route 28 require Site Plan approval for a commercial parking lot, a permitted use in the CV Zoning District.
15. In addition to the parking waiver, the applicant has requested the following waivers: design of the radius of the access road (§325-42.H), parking setbacks from property lines (§325-42.L), parking lot trees (§325-43.B) and interior landscaped islands (§325-43.C).
16. In order to maintain the location of the existing access point, it is reasonable to allow the extension of its radius across a small corner of the abutting property at 571 Route 28.
17. 0-foot setbacks are reasonable to facilitate shared parking between abutting parcels in a village setting.
18. Sufficient landscaping is proposed at the front and rear of the proposed development on 575 Route 28. The two requests for parking lot landscaping waivers are reasonable.
19. The proposed site access is subject to the jurisdiction of the Massachusetts Department of Transportation.
20. The applicant’s traffic engineer has submitted an assessment regarding projected development trip generation and safety at the proposed site access.
21. The Harwich Police Department has submitted speed study findings similar to those of the applicant.
22. The Harwich Board of Health has submitted a Certificate of Compliance, dated June 27, 2022, for the proposed development. The applicant subsequently submitted revisions to the layout of the “office” in three of the five residential units to comply with the requirements of the Certificate of Compliance.
23. The Harwich Fire Department, Conservation Department and Department of Public Works have replied that they have no concerns with this project.
24. The proposed building architecture and the orientation of the building to Route 28 comply with the purpose of the Village Commercial Overlay District (§325-51.L(1)) in that they are in keeping with Harwich Port’s historic development patterns, including the size and spacing of structures.
25. In addition to landscaping provided elsewhere on the property, the applicant has proposed nine (9) 20’ to 30’ high spruce trees at the rear of the parking lot. These trees in combination with an existing solid fence built by the abutter will effectively screen the parking lot from abutting residential property in accordance with §325-43.C of the Harwich Zoning Code.
26. The applicant has stated that the Lighting Plan (L1.1) conforms to the Outdoor Lighting section of the Harwich Zoning Code (Article XXI).
27. Any proposed signage will require additional permits and shall meet the requirements of the Harwich Zoning Code.
28. With recommended conditions of approval, the proposal satisfies the requirements for approval of the requested Special Permits. The use as developed will not adversely affect the neighborhood, is an appropriate location for such a use, structure or condition, will not create any nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities will be provided for the proper operation of the proposed use.
29. With recommended conditions of approval, the proposal satisfies the requirements for approval of the applicant’s waiver requests.
30. The Planning Board has determined that a crosswalk in the area of 575 Route 28 would be an asset to the area and in the best interest of the Town.

Seconded by Mr. Stoltz. Vote 7-0. Motion carries.

Ms. Maslowski moved to approve the following requests for waivers:

1. Number of parking spaces (reduced from 74 to 56 spaces) (§325-39)
2. Design of the radius of the access road (§325-42.H)
3. Parking setbacks from property lines (§325-42.L)
4. Parking lot trees (§325-43.B), and
5. Interior landscaped islands (§325-43.C).

Seconded by Mr. Chadwick. Vote 7-0. Motion Carries.

Ms. Maslowski moved to grant the following Special Permits:

1. Site Plan Review (§325-55) for commercial and other uses on 575 Route 28, a commercial parking lot on 569 Route 28, and a revised parking area on 571 Route 28.
2. Village Commercial Overlay District (§325-51.L),
3. Mixed-use development (§325-51.M),
4. Structures with greater than 7,500 square feet of gross floor area or requiring more than 20 new parking spaces (§325-9), and
5. Fast food/takeout restaurant (§325-14.O)

*Conditions of Approval*

1. The applicant shall provide an executed written agreement in a form satisfactory to Town Counsel for the use of parking areas on #569 and #571 Route 28 to the Board prior to issuance of an occupancy permit for development on #575 Route 28.
2. The applicant shall provide the following easements to the Board prior to recording. The easements shall be recorded at the Barnstable County Registry of Deeds prior to application for a building permit:
   1. Easements for shared use of the parking spaces crossing the property line between #571 and #575 Route 28.
   2. Easement for construction of a curb radius across a portion of #571 Route 28.
3. The plans for this project shall be revised and provided to the Board prior to endorsement to include the following:
   1. Relabeling of the landscaping plan to show nine Black Spruce trees (EC) along the southern boundary of the parking lot.
   2. Boundaries of required easements.
   3. The required number of copies of a combined plan set showing the latest revision for each sheet.
   4. A revised landscaping plan to include landscaping in front of the new parking lot to be constructed on #569 Route 28.
4. The proposed development shall be in accordance with the site plan referenced in the application materials above.
5. This decision shall run with the property.
6. This decision shall not be effective until it is recorded with the Barnstable Registry of Deeds.
7. Changes to the site and to the uses authorized under this decision may require further Planning Board review and a modification to this decision.
8. The applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to §400-18.G of the Harwich Code.
9. The fast-food/takeout restaurant shall close daily no later than 4:00 pm except during the weekly Harwich Port Music Stroll on summer evenings.
10. The restaurant shall open daily no earlier than 11:00 am.
11. The applicant shall apply to the Massachusetts Department of Transportation for a crosswalk in the vicinity of #575 Route 28.
12. The applicant shall submit an executed copies of an access agreement with Beachside Condominiums, 567 Route 28 in a form satisfactory to Harwich Town Counsel to the Planning Board prior to issuance of an occupancy permit for development on 575 Route 28.

Seconded by Mr. Stoltz. Vote 7-0. Motion carries.

**IV. PUBLIC MEETING**

**A. Requests for Inspection – Completion/Sign Off As-Builts:**

1. 282 Route 28, Cool Change LLC (Allen Harbor), PB2020-34  
  
The Board discussed the no parking indicators because the plan showed a paved driveway and it is now gravel. The proposed X’s on the driveway are not practical on a gravel driveway and no other signage is in place. Mr. Harris noted a safety concern- a trench for electrical wires that was never filled in the Northwest corner of the property. The Board requested the Planning office notify the owner by mail of the compliance and safety concerns prior to any sign-offs.

2. 195 Queen Anne Road, LLC, PB2020-24

The Board discussed discrepancies with the plan including, the parking area being used as storage, landscaping and enclosure around the dumpster area. The Board requested the Planning Office notify the applicant of the discrepancies prior to sign-offs.

3. Main Street Stone Horse, LLC, PB2019-13

Ms. Eldredge notified the Board Attorney Riley requested a continuance to September 13th, 2022.

Ms. Maslowski moved to continue the case to Sept 13th. Dually seconded. Vote 7-0. Motion carries.

Kent Drushella, representing the owner of an abutter, stated his concern of the building being occupied without an Occupancy permit.

B. Informal Discussions –

1. Ken Eubanks, 231 Queen Anne Road

Ken Eubanks introduced himself and discussed the proposed overhead door he would like to install with the Board, including what side of the building the door will be on and the structural specifics.

The Board requested the Planning Office research the original 1988 site plan to see if there are any conditions or language that would require Mr. Eubanks to go before the Board for a full Site Plan Review. If there are no applicable conditions, he can move ahead with his project.

2. Linear Retail, 1421 Orleans Road – Ralph Perelis, Linear Retail

Attorney Andrew Singer introduced himself and discussed the addition of an exterior door stated a Site Plan Review Waiver is what he thinks is the next step.

The Applicant, Attorney Singer and the Board discussed why the business needs a loading door, concerns about traffic flow and possible zoning issues.

Attorney Singer clarified it is a loading door, not a loading dock and will use to move pallets into the building by a hand truck.

The Board decided applying for a Site Plan Waiver is needed.

Approval of Minutes:

Ms. Maslowski moved to approve the minutes as amended for June 28, 2022. Seconded by Mr. Harris. Vote 7-0. Motion carries; minutes approved.

**Advisory Opinions/ Briefings/ Correspondence:**  
Nothing of special interest to the Planning Board from other regulatory boards.

The Board signed the following Plans and PB Agreement and Covenants

1. PB2022-12-Turtle Run

2. PB2022-05- Miskell Woods

**Adjournment:**

Ms. Maslowski moved to adjourn, seconded by Mr. Chadwick. Vote: 7-0; Motion carried. Meeting adjourned.

**Documents Used at Meeting:**

* Planning Board agenda 8/23/2022
* PB2022-15 Consultants report dated 8/18/2022 and addendum dated 8/23/2022
* PB2022-15 Plan Set, various dates

Respectfully submitted,

Lecia McKenna

Board Secretary

Approved: September 13, 2022