

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET- GRIFFIN ROOM
TUESDAY, AUGUST 27, 2019 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Chairman Joseph McParland; Vice-Chairman Alan Peterson; Mary Maslowski; Duncan Berry; Craig Chadwick; David Harris.

BOARD MEMBERS ABSENT: William Stolz.

OTHERS PRESENT: Town Planner, Charleen Greenhalgh; Chamber of Commerce Director, Cyndi Williams; Frank and Diane Puzio; John McElwee; Lori Coveney; Dan Ojala; Sarah Korjeff; and others.

CALL TO ORDER - 6:34 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.

PB2019-22, Ronald M. Remondino and Lisa Stoker, Site Plan Review and Special Permits, 521 Route 28.

Owners seek approval of a Site Plan Review Special Permit and Special Permits for Mixed Use and Village Commercial Overlay with waivers. The application proposes a 930± SF commercial addition, conversion of the second floor from residential use to commercial use and maintaining an existing residential dwelling unit at the rear of the building. The property is located at 521 Route 28, Map 14 Parcel P3-A in the C-V and V-C overlay districts and is pursuant to the Code of the Town Harwich §325-51.L, -51.M, and -55. Continued from July 30, 2019.

Chairman McParland re-opened the hearing at 6:35 pm.

Mrs. Greenhalgh stated that the applicant requested a continuance to September 10, 2019.

Ms. Maslowski made the motion to continue PB19-22 to September 10, 2019, no earlier than 6:30 pm, seconded by Mr. Peterson, unanimously so voted.

PB2019-29, Davenport Companies, 4-Lot Definitive Subdivision 79 Headwaters Drive.

Chairman McParland opened the hearing at 6:36 pm by reading the legal notice into the record, the Estate of James G. Marceline, as owner(s) seeks approval of a four (4) lot Definitive Subdivision including one panhandle lot pursuant to §§ 325-18(Q) and 400 of the Code of the Town of Harwich and M.G.L. c.41, §§81K-GG. The property is located at 79 Headwaters Drive, Map 81, Parcel C1 in the R-R zoning district.

The applicant has requested a continuance to 9/24/19 via a letter from Philip Scholomiti, P.L.S.

Ms. Maslowski made the motion to continue the hearing to September 24, 2019, no earlier than 6:30 pm, seconded by Mr. Peterson, unanimously so voted.

PB2019-30 First Crush Winery Cape Cod, LLC, Modification of a Site Plan Review Special Permit, 527 Main Street.

Representatives: Frank D. & Diane M. Puzio

Chairman McParland opened the hearing at 6:37 pm by reading the legal notice into the record. First Crush Winery Cape Cod LLC, applicant, Frank D. & Diane M. Puzio, owners, seek approval of a Modification of a Site Plan Review Special Permit related to parking regulations and for a new Use Special Permit for Retail Sales in the Industrial-Limited (I-L). The application is pursuant to the Code of the Town of Harwich §325-51 & -55. The property is located at 527 (Bldg. C) Main Street, Map 39, Parcels K6-16, -17 & -18 in the I-L Zoning District.

Frank and Diane Puzio explained that they are not making changes to the buildings per say, but they are here to demonstrate that there is adequate parking for a small retail space. They currently manufacture wine on the location, and they would like to be able to sell it on site. When they went to the Board of Selectmen to get a pouring license, it was realized that the appropriate site plan review was not completed, and they are here to retroactively correct that.

Mrs. Greenhalgh read the departmental input and the Town planners report into the record as follows: Health: The septic system is adequate for retail sales use at this site. The septic system is not designed for food service, and no food is to be prepared on site. Building, Engineering and Conservation: No concerns. Planning Staff Comments: A) The site has gone through two prior reviews; the only change to the site itself is the addition of 9 parking spaces on existing pavement. B) Staff has met several times with the representatives for First Crush Winery. C) The retail sales area is quite small at 444 s.f. D) Planning Staff has no concerns with this application. E) Recommend that Board of Health condition be included, along with standard conditions.

Mr. Chadwick asked if it was correct that fire and police had no concerns, because he has concerns about the proposed parking as it relates to the gas and electrical meters located outside the building and feels that police and fire department need to weigh in. Mrs. Greenhalgh stated that both the Town Engineer and the Fire inspector were at the meeting, and they had no issues. Mr. Chadwick continued to go through the parking lot spaces that he had concerns with and why.

Ms. Maslowski asked how the parking on this plan compares to how it currently exists. Mr. Puzio stated that the parking has always been there. One or two spaces are proposed in new locations, but in the whole it is already existing and has been for quite some time.

Mrs. Greenhalgh reviewed the site plan for the Board. Mrs. Maslowski clarified that the spaces that Mr. Chadwick is concerned with are existing spaces that have always been there. It was responded yes.

Mr. Chadwick asked if the applicants were here to add parking spaces. Mr. Puzio responded no. Mrs. Greenhalgh clarified why the applicant is here. The parking morphed over time, but it was already previously approved. The retail use in the IL zoning district requires a use special permit.

Ms. Maslowski suggested this plan be thought of as an As-Built, they are reporting the actual location. She continued to state that the Site plan cannot change without the Board voting on it, this is simply updating what is currently there.

Mr. Chadwick stated that he is not against the retail operation at all, he is just concerned about public safety.

Mr. Puzio stated that he is inspected yearly by the Fire Department, and the existing locations have never been a problem.

Mr. Chadwick made the motion to continue the hearing to September 10, 2018 no later than 6:30 pm with the expectation that the Fire Department will respond back with his concerns. Ms. Maslowski gave a courtesy second. After further discussion the vote was 2 (Chadwick and McParland) in favor and 3 (Harris, Maslowski and Peterson) opposed. The motion failed to pass.

Mr. Harris stated that he is concerned that the Board is trying to do something that is not their job. The Town officials have been doing the job, they shouldn't be interfered with.

Mr. Harris made the motion to close the public hearing, seconded by Ms. Maslowski. A Lengthy discussion ensued.

Mr. Peterson stated that the parking spaces are there. You are already selling wine. This is just retroactively legalizing what is already there. If the Fire Department doesn't comment, that is the comment. He does not want to penalize a great business. After the lengthy discussion, Mr. Harris withdrew his motion to close the public hearing, and Ms. Maslowski withdrew her second.

Ms. Maslowski made the motion to continue the hearing to September 10, 2019 no later than 6:30 pm, seconded by Mr. Berry. Unanimously so voted.

PB2019-31 KNT Realty Trust, 2-Lot Definitive Subdivision with waivers and a panhandle lot, 2, 6, 10, 14, & 0 Saltwater Lane.

Representative: John D. McElwee, PLS

Chairman McParland opened the hearing at 7:03 pm by reading the legal notice into the record. KNT Realty Trust, applicants, Timothy M. and Kerry A. Blanchard, TRS, as owners, seek approval of a 2-lot Definitive Subdivision with waivers and a panhandle lot pursuant to the Code of the Town of Harwich §325.18(Q) and MGL c.41, §81K-GG. The proposal would eliminate Saltwater Lane as shown on Land Court Plan 11783-D. The property is located at 2, 6, 10, 14 & 0 Saltwater Lane, Map 4, Parcels A1-A5 - A1-A9, respectively, in the R-L Zoning District.

John McElwee presented the proposed plan. He stated that there is an existing subdivision plan that was created in 1974. The plan created 4 buildable lots, a copy was provided in the Board members packet. He continued to state that the best use for this property is to modify the plan using today's zoning requirements. The site has approximately 2.39 acres with approximately 1.91 acres of upland, by today's standards. They are proposing two lots. The first lot, which is lot #10, has 164' of frontage on Riverside Drive, and meets the shape requirements. They also are

proposing lot #11, a panhandle lot, which is allowed under the Harwich zoning bylaws. The frontage is over 35', the length is 167'. The shape requirement is met. The only non-comforting item is the panhandle itself, which goes down to 24'. They know they will need a variance from the Zoning Board of Appeals. They are also requesting several waivers.

Mrs. Greenhalgh reviewed the departmental input and the Town planners report: Engineering: The plans note that a variance will be required for the panhandle lot width being less than the 35' wide minimum. The Town Engineer concurs with and wants to reiterate the need for the zoning relief. He is fine with the waivers with the stipulation that drainage shall be maintained on the subject properties to the maximum extent practicable. Conservation: lots are in Conservation jurisdiction and will need approval before any development begins. They are subject to the 60' no build zone from the top of the bank. Building, Fire, Highway, and Police: No concerns. Health: The Board of Health will not be reviewing this application until September 10, 2019. Planning Staff Comments: 1) No concerns with this application, including the waivers requested. 2) The Board cannot take final action until the Board of Health has commented on the subdivision.

Mr. Chadwick asked to point out the existing structures on the North side of the Driveway. Mr. McElwee stated there are no structures, it's a vacant property. Mr. Chadwick asked where the lot is relative to any existing structures. Mr. McElwee the structures show on the plan provided, and pointed out on the map where it is located on the adjoining property.

Mr. McParland asked why the entrance to the drive way narrows from 35' to 24'. Mr. McElwee stated that in order to fit on the site it would either have to narrow the width of the panhandle lot, or argue the shape requirement. He stated it is easier to present a narrowing of a panhandle lot, than try and explain the difference between shape numbers would almost be impossible. It's for clarity.

Lori Coveney, 113 Riverside Drive, asked what the plan was for the driveway. She had several other questions relating to the name and the location of the drive. Mrs. Greenhalgh clarified when this goes to the Zoning Board of the Appeals the abutter can bring that up as part of the variance request so it will be closer to lot 10 than her parcel.

Mr. McElwee stated that they did submit a typical driveway section. The driveway was shifted over so there is 9' between the driveway and the lot line, so that was taken into consideration.

Mr. Peterson made the motion to continue the public hearing for PB2019-31 KNT Realty Trust to September 24, 2019 no earlier than 6:30 pm, seconded by Mr. Chadwick, unanimously so voted.

PB2019-32 John E. Pina & Thomas J. & Jodie C. Blute, 3-Lot Modification of a Definitive Subdivision, 1 & 2 J's Path.

Chairman McParland opened the hearing at 7:19 pm by reading the legal notice into the record. John E. Pina & Thomas J. & Jodie C. Blute Owners seek approval of three (3) lot Modification of a Definitive Subdivision with waivers including one panhandle lot pursuant to the Code of the

Town of Harwich § 325-18(Q) and M.G.L. c.41, §§81K-GG. The properties are located 1 & 2 J's Path, Map 72, Parcels C1-1 and C1-2, respectively, in the R-R zoning district.

Mrs. Greenhalgh requested on behalf of the applicant to continue the hearing. She explained that there was a miscommunication regarding the abutter notification requirements.

Ms. Maslowski made the motion to continue PB19-32 to September 24, 2019 no earlier than 6:30 pm, seconded by Mr. Chadwick, unanimously so voted.

PB2016-07 Orthopedic & Sports Physical Therapy of Cape Cod – Request to post bond and make changes to the site at 172 Route 137, East Harwich.

Dan Ojala stated that they are requesting a change in parking spaces. The reason the HCP spaces have changed is that the building department has received a verbal opinion from the Architectural Access Board's (AAB) enforcement officer that standalone physical therapy use requires 20% of their spaces be allocated accessible.

Almost all of the clinic's patients are ambulatory, and they are not an inpatient rehab hospital or similar, they feel that they do not fall under this special category, which is why the original proposal had two HCP spaces, which is normally enough to serve 50 car parking lots. The AAB's enforcement officer did not share this opinion, so they need to add spaces. The parking calculations for the gym area had to be reduced by two spaces in order to accommodate the additional HCP isles.

They would like to line stripe additional HCP spaces as now required by the building department/AAB, and would request they be allowed to post a 150% bond of \$7,000 to cover the future removal of a small overage of impervious coverage which was constructed on the site.

Mrs. Greenhalgh stated she has absolutely no concerns. However, she would ask the Board to approve the Chair to sign the performance surety in order to expedite the process.

Ms. Maslowski made the motion to authorize that the occupancy be issued by the posting of a bond for \$7,000 to cover future removal of the small amount of impervious coverage and/or the ability to go to the Zoning Board of Appeals for necessary relief to expand the parking as the applicant desires and to authorize the chair to sign the agreement, seconded by Mr. McParland, unanimously so voted.

Presentation by Sarah Korjeff, Cape Cod Commission (CCC) Staff on potential recommendation of nomination of the West Harwich Corridor (Dennisport Town Line to Herring River) as a District of Critical Planning Concern (DCPC).

Mrs. Greenhalgh reviewed all of the documents related to the DCPC.

Mr. Chadwick asked if Mr. Berry should recuse himself. Mr. Harris stated that there is no financial gain, there is no conflict of interest. Mrs. Greenhalgh stated that she didn't believe he

needed to recuse himself. Mr. Chadwick had a prepared section available from the handbook, and read it to the other Board members stating why he thought Mr. Berry should recuse himself.

Mr. Berry stated he can understand if he needs to recuse himself from voting, but he certainly wants to be involved and listen to what is being presented. He has no ties to a DCPC.

A lengthy conversation ensued. It was agreed that the discussion would only focus on what a DCPC is and the benefits associated with a DCPC.

Sarah Korjeff stated that she is a Planner and Historic Preservation Specialist with the Cape Cod Commission. She reviewed what a DCPC is, and stated that DCPC is a tool that is made available throughout the Cape Cod Commission Act. The 15 towns of Barnstable County may use it, but it is not available for everyone in Massachusetts. It identifies certain areas of concern in the community. Special regulations to protect those areas of concern. If a nomination is accepted by the CCC, then there is a time out, or a moratorium on development, so the town can do planning and analysis to figure out what is appropriate for that area. It will not force development, and allow to consider options. Basically it eliminates pressure. It is also a robust public process, with lots of public hearings where people can voice concerns and interest. If the DCPC is established, you adopt new implementing regulations that address concerns, and are not part of normal grandfathering. Eastham recently went through the commercial corridor on Route 6. Cape Cod has about a dozen districts of planning concerns with a wide area of interests. The two that are of most interest to your board are Eastham and Craigville/Centerville. They involve zoning that focus on form of development allowed, and at the same time looks at resource concerns. The most important thing to know is the Town is making the nomination, you as Board members would help in the process.

Mr. Peterson asked if there is such a thing as a typical nomination, how long it takes. Ms. Korjeff responded that it usually takes less than a year, if possible, but it can vary quite a bit. Eastham took less than a year.

Mr. Harris stated that he thinks this is a terrific tool, and he would like to compliment the whole process, and thanked Ms. Korjeff.

Mrs. Greenhalgh asked Ms. Korjeff if she has found that in some communities the creation of the zoning in the DCPC areas has spread to other areas in town. Ms. Korjeff said that it could happen, but she can't think of an example at the moment.

Ms. Maslowski asked about the lack of grandfathering. Mrs. Greenhalgh clarified that for example if a subdivision were filed during the moratorium the usual zoning protection afforded a subdivision would not occur.

A lengthy discussion ensued. Mrs. Greenhalgh, as the Town Planner, will continue her work on a potential DCPC nomination for the West Harwich corridor. The Board thanked Ms. Korjeff. The discussions will continue. Mr. Chadwick stated that he would not be present at the next meeting and asked if, similar to a recent postponement at a Selectmen's meeting, the Board would wait

for him to return so that he can participate in any vote. Mr. McParland stated that he was not inclined to do so.

MEETING MINUTES

Mr. Harris requested that his name be removed from the July 30, 2019 minutes, as he was not in attendance. Mr. Peterson made the motion to approve the minutes for July 30 with the deletion of Mr. Harris, seconded by Ms. Maslowski, unanimously so voted with the exception of Mr. Harris who abstained due to his absence.

Mr. Peterson made the motion to approve the minutes from August 13, 2019, seconded by Ms. Maslowski, unanimously so voted.

BRIEFINGS & REPORTS BY BOARD MEMBERS

Chairman McParland reported that he is on the Capital Outlay Committee, and departments will be presenting their budgets soon.

Ms. Maslowski stated that the CPC will meet in September. October 1st is the deadline for funding, so Planning Board may be seeing applicants.

ADJOURNMENT: The motion was made by Chairman McParland to adjourn at 8:12 pm. The motion was made by Mr. McParland, seconded by Ms. Maslowski. Unanimously so voted.

Respectfully submitted,

Kathleen A. Tenaglia, Board Secretary.

Adopted: September 10, 2019