



TOWN OF HARWICH
732 Main Street, Harwich, Massachusetts 02645

ZONING BOARD OF APPEALS

Notice of Appeal/Application and Petition for Public Hearing, ("APPLICATION")

This Application *does not* apply to Comprehensive Permits.

Please refer to the Rules and Regulations of the Town of Harwich Board of Appeals for documentation requirements.

This original completed and signed notice ("Application"), along with a certified abutters list and twelve (12) copies of all plans, sketches, statements, site plans or other supporting documents per the attached checklist must be presented to the Building Department prior to being filed with the Town Clerk. The required documentation, ALL of which must be submitted on the date of filing, is listed on this Application. **THE RULES AND REGULATIONS ("RULES") OF THE TOWN OF HARWICH BOARD OF APPEALS APPLY TO ALL APPEALS AND APPLICATIONS AND SHOULD BE CONSULTED BEFORE FILING AN APPEAL OR APPLICATION TO ENSURE COMPLIANCE WITH THEM.**

To the Zoning Board of Appeals, Harwich, MA:

(We, I) hereby petition your Board for a public hearing on the request for action checked below:

- Appeal from decision of or refusal of permit application by the Building Inspector, Selectmen or Planning Board or other administrative officer or officers.
- Application for a Variance from requirements of the Harwich Zoning By-Law.
- Application for a Special Permit that is subject to Board of Appeals approval.

I/we am/are the owner[s]/agent of the property involved in this petition, which is located in Harwich, MA at the following address:

968 Route 28 Said property is further described on

Assessor's Map # 34 and Parcel # W2 located in the CH1 Zoning District as shown on the attached plan.

Describe Petition/Appeal: Application for a Variance from the front setback requirement

Relief requested - Cite specific Bylaw Section(s): Table 2 - Area Regulations - 25' front setback

Signature of Owner (or Agent) [Signature] Date 2/3/2022
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name Benjamin and Jacqueline Borne Phone No. _____

Mailing Address: 167 Cherry Street, West Newton, MA 02465

Agent Name: Riley & Norcross, LLC Phone No. (508) 945-5400

Mailing Address: 156 Crowell Road, PO Box 707, Chatham, MA 02633

Has a petition previously been submitted for this property (Y/N) No

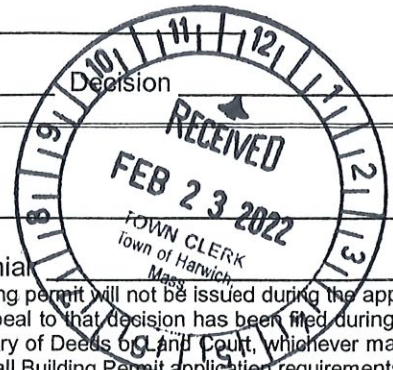
If yes, the date of original hearing _____ Petition No. _____

For Appeal Only:

Reason for Denial: _____

Denial From: _____ Date of Denial _____

Within 14 days following any Board decision, the Board will file its decision with the Town Clerk. A building permit will not be issued during the appeals period, until 21 days after the Board of Appeals decision has been filed with the Town Clerk or if an appeal to that decision has been filed during that time. It is the **applicant's responsibility** to have the decision recorded at the Barnstable County Registry of Deeds and Court, whichever may be applicable, and to present copies of that recording to the Town Clerk and to the Building Department with all Building Permit application requirements.



Name of Applicant: Benjamin and Jacqueline Boane
 Address of Property: 167 Cherry Street, West Newton, MA
 Zoning District: CH1

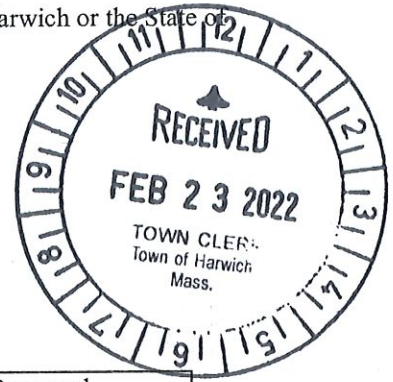
Is the property Located in any Special District(s)/Overlay District(s) established by the Town of Harwich or the State of Massachusetts: Yes No

If Yes, specify District(s): Historic

Year Structure(s) Built: 1815

Name/Address of Engineer/Architect: Peter MacDonald

Name/Address of Attorney: Riley & Brass, LLC



	Required by Bylaw	Existing	Proposed
Lot Area	40,000 s.f.	49,895 s.f.	49,895 s.f.
Frontage	150'	211.91'	211.91'
Front Yard Setback	25'	25.15'	20.44'
Side yard Setback (Right)	20'	32.27'	28.18'
Rear Yard Setback	20'	22.99'	22.99'
Any Yard Setback - Specify which: LEFT	20'	56.27'	56.27'
Building Coverage	30%	4.69%	6.83'
Site Coverage	70%	12.36%	17.32%
Building Height			
If this is an Application for an Accessory Apartment, in addition to the above:			
A. Net Floor Area of the Principal Dwelling			
B. Net Floor Area of the proposed Accessory Apartment			

Form of Relief Requested: Variance

If the Applicant is requesting a Variance, state the hardship which the Applicant believes justifies this form of relief in accordance with MGL Chapter 40 and the Harwich Zoning Bylaw:
See Attached Sheet

By signing and submitting this Application, you hereby authorize the members of the Board of Appeals, or its agent, to conduct a site visit of the exterior of your property for an inspection of the property involved in this petition, should they deem it appropriate.

The Board of Appeals is entitled to rely on the information contained in this Application. Therefore, the undersigned certifies that the information provided in this Application, and all submitted plans and other documentation, is true and accurate to the best of my knowledge and belief.

Agent's Signature: _____ Date: _____

Owner's Signature: [Signature] Date: 2/3/2022

Please be advised that an incomplete Application may result in a delay in processing your Application and **may result in a denial by the Board** without consideration of the merits of the Application. **IT IS YOUR RESPONSIBILITY TO REVIEW THE RULES THAT APPLY TO YOUR APPEAL/APPLICATION AND TO MAKE SURE BEFORE FILING THAT YOUR APPLICATION/APPEAL COMPLIES WITH THOSE RULES.** The burden of proof is on the petitioner, not on the Town. If you do not understand the criteria, legal counsel should be sought. Either the petitioner or his/her agent is required to appear at the hearing to present the Application.

All applicants for hearing before the Board of Appeals must complete the Application and submit along with it the supporting documentation listed herein to the Building Department for review and subsequent filing with the Town Clerk. The Building Department accepts Applications during posted hours. You are strongly encouraged to submit your Application to the Building Department well in advance of the filing deadline to allow adequate time for staff review for completeness. **All information, including the applicable fee made payable to the Town of Harwich, must be submitted with the Application.**

Please submit the following, sorted and grouped into **twelve (12) packets along with one (1) Certified Abutters List** (Available from the Assessors Department. A separate application and fee is required):

✓ **The original Application (additional stamped copies can be provided at a nominal fee):**

- Signed by the owner or agent.
- If signed by an agent, a letter of authorization signed by the owner must also be included.

✓ **A typewritten narrative to explain the project, the purpose for this Application and the relief requested, with citations to the applicable provisions of the MGL and the Harwich Zoning Bylaw.**

✓ **The original and eleven (11) copies of a Certified Plot Plan with topographical information plan (not septic plans) not more than five (5) years old (total of 12 copies):**

- 8½" x 11" or larger. *Larger plans must be folded.*
- Scale no greater than 1" = 50'
- Original stamped and signed by a Professional Engineer (as allowed by law), or a Professional Land Surveyor.
- Certified Plot Plan **must** indicate:
 - the locus;
 - the parcel or parcels of land involved;
 - the existing building or buildings;
 - the proposed building or buildings and/or additions to, or alterations of existing buildings with all dimensions set forth;
 - the location of the septic;
 - the Town of Harwich zoning requirements applicable to the property, as well as existing and proposed dimensions for: frontage, front, sides, and rear setback distances, building height(s), building stories, building and site coverage and parking requirements (if any);
 - all perimeter dimensions (existing and proposed);
 - location and width of abutting and on-site street and drives, parking, existing topography;
 - a grading plan, areas of proposed and retained vegetation, distinction between upland and wetland.
- Building Plans drawn to scale:
 - Floor layout (for existing structure and proposed additions and/or alterations)
 - Proposed front, side, and rear elevations

✓ **Certified Abutters List**

✓ **Check made payable to "Town of Harwich" for \$315.00.**



BUILDING DEPARTMENT • 732 Main Street, Harwich, MA 02645

ph: 508-430-7506 fax: 508-430-4703



Revised March 3, 2022

Benjamin Borne and Jacqueline Savage Borne
167 Cherry St.
West Newton, MA 02465

Re: 968 Route 28
Assessors Map 34, Parcel W2
CH-1 Zoning Districts

Dear Mr. & Mrs. Borne,

Please be informed we must deny your building permit application to construct a front porch addition at the subject property.

This project is being denied based on information provided by you including building plans/elevation drawings by Peter McDonald, Architect dated 8/10/2021 and a Site Plan by Paul E. Sweetser, PLS dated 12/6/21. Your proposal as submitted is not conforming to the following section of the Harwich Zoning By-Law- Table 2, Area Regulations: Front yard setbacks.

Relief is required from the Zoning Board of Appeals in accordance with §325-52- Variances in order to proceed with this project.

Respectfully,

Robert Piccirilli
Building Official

Cc: File
E. Christopher Bilek

BUILDING DEPARTMENT • 732 Main Street, Harwich, MA 02645

ph: 508-430-7506 fax: 508-430-4703



Revised March 3, 2022

Benjamin Borne and Jacqueline Savage Borne
167 Cherry St.
West Newton, MA 02465

Re: 968 Route 28
Assessors Map 34, Parcel W2
CH-1 Zoning Districts

Dear Mr. & Mrs. Borne,

Please be informed we must deny your building permit application to construct a front porch addition at the subject property.

This project is being denied based on information provided by you including building plans/elevation drawings by Peter McDonald, Architect dated 8/10/2021 and a Site Plan by Paul E. Sweetser, PLS dated 12/6/21. Your proposal as submitted is not conforming to the following section of the Harwich Zoning By-Law- Table 2, Area Regulations: Front yard setbacks.

Relief is required from the Zoning Board of Appeals in accordance with §325-52- Variances in order to proceed with this project.

Respectfully,

Robert Piccirilli
Building Official

Cc: File
E. Christopher Bilek

**SUPPLEMENT TO PETITION
APPLICATION FOR A VARIANCE**



Benjamin and Jacqueline Borne (“Applicants”)

968 Route 28 (the “Property”)

The Applicants propose to construct a covered porch to replace the one that previously existed on the front of the dwelling at this Property. The front setback required in this Zoning District is 25 feet. The current setback of one corner of the structure at the Property is 25.15 feet. The proposed porch would reduce that to 20.44 feet from Route 28 and therefore requiring the issuance of a Variance.

To qualify to apply for a Variance there must be a hardship that arises out of the soil, shape, or topography of the lot or structure and that granting this Variance will not derogate from the purpose or intent of the bylaw, or create a detriment to the public good.

This building was originally constructed in approximately 1815. When the state took the land for Route 28, the taking line was at an angle to the existing house. The taking in 1926 widened the right of way so that the road was only 25.15 feet from one corner of the building. The other corner is far enough from the street so a major portion of the porch will meet the setback requirement. The Town’s zoning bylaw evolved and eventually required a setback of 25 feet. The current owners want to reconstruct the front porch that had been on the building originally. The Applicants believe that the fact that the state taking and the Harwich zoning bylaw create a hardship that is unique to this property and that the grant of the Variance can be done without derogating from the purpose and intent of the bylaw.