

Law Office of Singer & Singer, LLC

26 Upper County Road
P. O. Box 67
Dennisport, Massachusetts 02639

Andrew L. Singer
Marian S. Rose

Tel: (508) 398-2221
Fax: (508) 398-1568
www.singer-law.com

Myer R. Singer (1938-2020)

Harwich Board of Appeals

129 Route 137 East Harwich, MA

Summary of Reasoning

The Cape Cod Five Cent Savings Bank [“Applicant”] owns the property at 129 Route 137 in East Harwich at the intersection of Routes 39 and 137 [“Property”]. The Property, which is shown as Parcel U3-67-0 on Harwich Assessor’s Map 87, is located in the commercial CH-2 Zoning District and the Water Resources Protection (WR) District. The Property is improved with a bank branch building, including two drive-thru aisles, one ATM aisle, and one exit travel way. These four, existing aisles/travel ways on the east side of the building are presently accessed by only two drive aisles around the southwest corner of the building.

The Applicant proposes to reconfigure the access drive to these drive thru/ATM/travel lanes, including 1) widening the driveway at the southwest corner of the building to allow a new third lane access around the building to resolve the current crowded traffic pattern and improve circulation, as well as 2) relocate and improve the parking area, including relocating the existing ADA parking stall and adding a new walkway from it into the building. No alterations are proposed to the building itself. Relief is required because while the existing impervious site coverage (41%) is conforming in the CH-2 Zoning District (70% maximum allowed), it is pre-existing nonconforming in the WR District (40% maximum allowed). Proposed site coverage with the safety and parking improvements will increase to 44%.

The Petitioner is thus requesting a variance and, as allowed, a special permit in accordance with Sections 325-52 and 325-54 of the Harwich Zoning By-Law [“Zoning By-Law”] and M.G.L. Chapter

40A, Sections 6 and 10, in order to change, extend, and alter the pre-existing nonconforming site condition (site coverage in the WR District – Table 3) to complete the work as detailed above.

In reviewing a variance request, the Board is authorized to grant dimensional relief when it makes three findings. These include that owing to circumstances relating to the soil conditions, shape or topography of such land or due to circumstances relating to the structures and especially affecting such land or structures but not affecting generally the zoning district in which they are located, a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the Applicant; that desirable relief may be granted without substantial detriment to the public good; and that such relief can be granted without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law.

The Applicant respectfully submits that the proposal satisfies all of the requested relief criteria, will not be substantially more detrimental or nonconforming, and will, to the contrary, be a significant benefit and improvement because:

1. There will be no alterations to the building, no reduction in the number of parking spaces, and no change in the use of the Property;
2. The increase in impervious coverage (2,168± sq. ft.) is a less-than-ten-percent increase in the pre-existing nonconforming (as to the WR District) site coverage, and proposed site coverage (44%) will remain conforming as to the CH-2 Zoning District (70%);
3. The existing site coverage is pre-existing nonconforming as to the WR District in part because there is a paved, twenty-four-foot (24 ft.) easement driveway crossing the northeast corner of the Property that benefits the adjacent shopping plaza buildings;
4. Adding the third driveway around the southwest corner of the building will reduce crowding and significantly improve safety for customers accessing the drive-thru and ATM aisles as well as exiting the Property from the parking on the west side of the building via the one-way circulation around to the east side of the building;

5. The Property is serviced by an existing stormwater management system which recharges and treats stormwater on-site, and this system will be upgraded to accommodate the additional impervious coverage;
6. Given the shape of the Property, the longstanding placement of the building on the site, and the existence of the paved easement servicing the adjacent shopping plaza, all of which are unique circumstances affecting the Property, there will be a substantial practical and financial hardship if the Zoning By-Law is literally enforced such that the proposed safety improvements cannot be completed;
7. The proposal will be in keeping with and compatible with the character of the commercial neighborhood and will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town; and
8. The Harwich Planning Board has unanimously granted a Waiver of Site Plan Review to complete the proposal as shown on the submitted plans.

For all of the above reasons, the Applicant respectfully requests that the Board of Appeals find that the statutory criteria for the requested relief are met and grant a Variance and, as allowed, a Special Permit, to allow the redevelopment to be completed as shown on the submitted plans.