



**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 of this 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:

135 MILES ST.

Said property is further described on

Assessor's Map # 14 and Parcel # J4 located in the R-M Zoning District as shown on the attached plan.

Describe

Petition/Appeal: SEE ATTACHED

Relief requested - Cite specific Bylaw Section(s):

SEE ATTACHED CORRESP OF BLOG COMM.

Signature of Owner (or Agent)

Walter J. Maloney III and Tracey C. Maloney

Date

10/26/22

(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name WALTER J. MALONEY III TRACEY C. MALONEY

Phone No. 508-432-1643

Mailing Address: 58 MORRISON RD W, LAKEFIELD, MA 01880-2151

Agent Name: William D. Crowell, Esq.

Phone No. 508-432-1643

466 Main Street

Mailing Address: P.O. Box 185

Harwich Port, MA 02646

Has a petition previously been submitted for this property (Y(N)) (N)

If yes, the date of original hearing \_\_\_\_\_ Petition No. \_\_\_\_\_ Decision \_\_\_\_\_

**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 or Land 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.

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Please be advised that incomplete Applications may result in a delay in processing your appeal/Application and **may result in a denial by the Board** without consideration of the merits of the appeal/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 this 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):

- X **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.
  
- X **A typewritten narrative to explain the project , the purpose for this Application and the relief requested, with citations to the applicable provisions of MGL and the Harwich Zoning Bylaws.**
  
- X **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
  
- X **Certified Abutters List**
  
- X **Check made payable to "Town of Harwich" for \$315.00.**

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**APPLICATION CHECKLIST ADDENDUM**

This Addendum must be completed in full by the Applicant and is a part of the Application.

Name of Applicant: WALTER V. MALONEY III + TRACEY C. MALONEY

Address of Property: 135 MILES ST.

Zoning District: R-M

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 X

If Yes, specify District(s): \_\_\_\_\_

Year Structure(s) Built: AFTER 1932

Name/Address of Engineer/Architect: William D. Crowell, Esq.  
486 Main Street

Name/Address of Attorney: \_\_\_\_\_  
P.O. Box 185  
Harwich Port, MA 02646

	Required by Bylaw	Existing	Proposed
Lot Area	40,000	13,394	13,394
Frontage	150	80	80
Front Yard Setback	25	33.9	60
Side yard Setback	20	3.5	20.1
2 <sup>nd</sup> Side Yard Setback	20	19.2	10.0
Rear Yard Setback	20	83.1	20.5
Building Coverage	20%	11.39%	20%
Site Coverage	35%	22.49%	33.69%
Building Height	<30	<30	<30
<b>If this is an Application for an Accessory Apartment, in addition to the above:</b>			
A. Net Floor Area of the Principal Dwelling	—		
B. Net Floor Area of the proposed Accessory Apartment			

Form of Relief Requested: SPEC. PERM.

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:

\_\_\_\_\_

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.

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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.

Applicant's Signature:  Date: 10/26/22

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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Maloney – 135 Miles Street

The Petitioners are requesting a Special Permit to demolish and replace the existing single-family residence and detached garage as shown on the Existing Conditions Plot Plan by TS Land Surveying Inc. dated September 10, 2021 and the Proposed Conditions Plot Plan by PJF and Associates dated September 12, 2022. The existing dwelling is non-conforming on the westerly setback at 19.2 feet (20 feet required) but is conforming as to the remaining setbacks. The existing garage is non-conforming on the easterly setback at 3 1/2 feet (20 feet required).

The proposed dwelling with an attached garage as shown on the Building and Elevation Plans by Deer Hill Architects LLC (Sheets A1 -7 and S1-2) show that there will be a building code compliant roof over the porch attaching the garage to the main part of the dwelling and the garage with habitable space above will meet all required setbacks as will the porch on the east side. The proposed dwelling (sunroom) will be 10 feet from the westerly lot line (20 feet required) but will meet all other required setbacks. However, in accordance with the findings of the Gale Case this Board may grant a Special Permit for the same upon a finding that such an intensification of an existing non-conformity (19.2 feet) will not constitute a substantial detriment to the entire neighborhood.

In the alternative, the Petitioners request a Variance for the above demolition and replacement.

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**Sally@wcrowell.office1@comcast.net**

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**From:** Walter Maloney <wmaloney@hprfireprotection.com>  
**Sent:** Monday, October 24, 2022 11:40 AM  
**To:** wcrowell.office1@comcast.net  
**Cc:** wmaloney@comcast.net  
**Subject:** Authorization For Board of Appeals Representation - 135 Miles Street Harwich MA.

We, Walter V. Maloney, III and Tracey C. Maloney, owners of 135 Miles Street, Harwich Port hereby authorize William D. Crowell, Esq. to represent us before the Town of Harwich Board of Appeals.

Thank you,

Walter V. Maloney, III and Tracey C. Maloney

**Walter V. Maloney**  
**HPR Fire Protection, LLC**  
Tel: 781-246-7400  
Fax: 781-246-7410  
Cell: 781-910-3431

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**TOWN OF HARWICH**  
*Building Department*  
732 Main Street  
Harwich, MA 02645



**Telephone: (508) 430-7506**

**Fax: (508) 430-4703**

**By First Class Mail**

October 21, 2022

Walter V. Maloney  
135 Miles Street  
Harwich, MA 02645

Re: Zoning Relief Required  
Building Permit Application "construct new dwelling."  
135 Miles Street Harwich, MA 02645 (Assessor's Map 14, Parcel J-4)  
Zoning District R-M

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Dear Mr. Maloney,

Please be advised that as a condition to issuance of the above-referenced building permit as submitted, shown on a plan prepared by PJF & Associates dated September 12, 2022, the following zoning relief is first required:

**§325-54 Nonconforming structures and uses**

Should you desire to proceed with the project, you must first apply for the foregoing relief; this letter shall serve as a referral to the Board for the same. Copies of the necessary zoning forms and applications are available in the offices of the Town's Building and Planning Departments.

In the meantime, your building permit application shall be deemed 'incomplete' and the period to review and issue such permit suspended until such time as you apply for and obtain the special permit; the special permit decision issues and is filed with the Town Clerk; the applicable appeal period elapses; and you provide the Building Department a copy of the special permit decision as recorded with the Barnstable Registry of Deeds or, as applicable, the Barnstable Registry District.

I also reserve the right, should you not expeditiously and continuously proceed with obtaining the required zoning relief or otherwise withdraw the building permit application, to deny the building permit application for incompleteness, or inconsistency with zoning, or both.

Further, be advised that, subject to obtaining the required permits and after construction, you will be required to submit a final as-built plan to the Building Department certifying that the

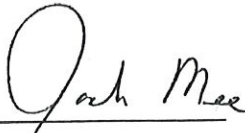


project complies with the approved plans and all applicable dimensional requirements under town zoning.

This correspondence also serves as a zoning determination under Section 7 of Massachusetts General Laws Chapter 40A, which may be appealed by a 'person aggrieved' under Sections 8 & 15 of Massachusetts General Laws Chapter 40A.

Please feel free to contact the Building Department to discuss further, as necessary.

Respectfully,



Jack Mee  
Harwich Building Commissioner

Cc: File

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