



TOWN OF HARWICH
732 Main Street, Harwich, Massachusetts 02645

ZONING BOARD OF APPEALS

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

RECEIVED
TOWN CLERK
HARWICH, MA
2023 JAN 27 P 2:36

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:

61 Shore Road, West Harwich Said property is further described on

Assessor's Map # 2 and Parcel # B1-1 located in the R-L Zoning District as shown on the attached plan.

Describe Petition/Appeal: Applicant seeks to raze the pre-existing nonconforming as to left and right setbacks, single family structure and replace with less nonconforming as to setbacks of structure.

Relief requested - Cite specific Bylaw Section(s): 325-54(A) (5)

Signature of Owner (or Agent) Marian S. Rose Date January 18, 2023
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name James C. Fish & Tracy M. Fish Phone No. c/o Marian Rose 508-398-2221

Mailing Address: See below (agent address)

Agent Name: Marian S. Rose, Esquire Phone No. 508-398-2221

Mailing Address: Law Office of Singer & Singer, LLC - PO Box 67 (26 Upper County Road) Dennisport, MA 02639

Has a petition previously been submitted for this property (Y/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.

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):

- 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 the MGL and the Harwich Zoning Bylaw.**

- 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.**

Name of Applicant: Marian S. Rose for James & Tracy Fish

Address of Property: 61 Shore Road, west Harwich

Zoning District: R-L

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: 1988

Name/Address of Engineer/Moran Engineering – Dan Croteau, PE – 941 Route 28, harwich, MA 02645

Name/Address of Attorney: Marian S. Rose – Law Office of Singer & Singer, LLC – PO Box 67, Dennisport, MA 02639

Subject	Existing	Required	Proposed
Lot Area (square feet)	28,124	40,000	28,124
Frontage (linear feet)	75'	150'	75'
Front Yard Setback (feet)	67'	25'	44'
Side yard Setback (feet)	12.4' / 11.5'	20'	14.4' / 13.2'
Rear Yard Setback (feet)	104.7'	20'	105.5'
Any Yard Setback - Specify which:			
Building Coverage (%)	10.7%	15%	13.4%
Site Coverage (%) (see 325-2)	30%	25.6%	27.3%
Building Height (see 325-2 & 325-108)*	30.2'	30'	30'
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			
* Building height calculation(s) must be shown on plan for all zones per the Harwich Zoning By-laws Section 325-2. See Article XVII - Floodplain Regulations Section 325-108.			

Form of Relief Requested: Special Permit

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.

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: Marian S. Rose Date: 1-18-2023

Owner's Signature: Jim Fish by MRose Date: 1-18-2023
Tracy Fish w/ authorization

Harwich Zoning Board of Appeals
Narrative in Support of Special Permit Application
61 Shore Road, West Harwich

RECEIVED
TOWN CLERK
HARWICH, MA

2023 JAN 27 P 2: 36

The Applicants have applied for a special permit to raze and replace the pre-existing nonconforming single-family, two-story residence at 61 Shore Road, West Harwich and seek a finding from the Board that the demolition of the existing structure and its replacement with a less nonconforming single family structure is not substantially more detrimental to the neighborhood than the existing residence and that the project meets the other requirements of Section 325 (A) (5), all according to the plans submitted herewith.

The property is undersized (28,124 +/- sq. ft existing, 40,000 sq. ft. required) and nonconforming as to frontage (75.60 +/- ft. existing, 150 ft. required). The existing structure is nonconforming as to side setbacks (12.4 (left) 11.5 (right) existing, 20 ft. required) and height (30.2 ft. existing, 30 feet maximum allowed). The property is waterfront and the existing dwelling and deck are located within the resource area with the deck located partially within the fifty-foot resource area.

The Applicants propose to construct a two-story, single-family residence with a patio and pool. The proposed dwelling will be conforming as to building coverage and the site will be conforming as to site coverage. (proposed building coverage 13.4%, 3,766 sq. ft. where 15% , 4218 sq. ft allowed) (proposed site coverage 27.3%, 7685 sq. ft where 30%, 8437 sq. ft. allowed). The proposed building height will also be conforming. (30 ft. proposed, 30 ft. maximum allowed). The proposed dwelling will be less non-conforming as to side setbacks (left setback: 12.4 ft. existing, 14.4 ft. proposed, 20 ft. required; right setback: 13.2 feet proposed, 11.5 existing, 20 ft. required). The proposed dwelling will be shifted further away from the 0-50 foot resource area and a significant portion of the structure will be located outside of the 0-100 resource area.

Relief is required because portions of the existing dwelling are located within setback areas and because the proposed new construction does not meet the setback requirements of the zoning district, R-L as shown under Section 325: Table 2, Area Regulations. Therefore, the proposal to construct the addition requires a special permit and finding pursuant to HZB Section 325-54(A)(5).

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



Telephone: (508) 430-7506

Fax: (508) 430-4703

By Email

January 17, 2023

James & Tracy Fish
C/o Marian S. Rose, Esq.
Law Office of Singer & Singer
PO Box 67, 26 Upper County Rd.
Dennisport, MA 02639

RECEIVED
TOWN CLERK
HARWICH, MA
2023 JAN 27 P 2:36

Re: Zoning Relief Required
61 Shore Road
Harwich, MA (Parcel ID 2-81-1),
Zoning District R-L

Dear James & Tracy Fish

Please be advised that as a condition to issuance of the above-referenced building permit as submitted, shown on a plan prepared by Moran Engineering Assoc., LLC dated November 14, 2022 the following zoning relief is first required:

Harwich Zoning Bylaw §325-54 (A) (5), allowing the demolition of a pre-existing nonconforming single-family structure by special permit upon a determination by the Zoning Board of Appeals that the project meets the requirements of this section.

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.

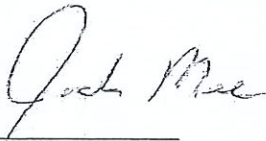
I also reserve the right, should you not expeditiously and continuously proceed with obtaining the required zoning relief or otherwise withdraw the building permit application, to deny the building permit application for incompleteness, or inconsistency with zoning, or both.

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,

A handwritten signature in cursive script, appearing to read "Jack Mee".

Jack Mee
Harwich Building Commissioner

Cc: File

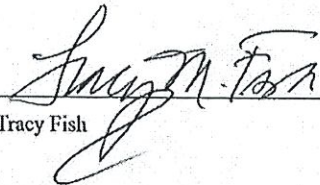
RECEIVED
TOWN CLERK
HARWICH, MA

2023 JAN 27 P 2:36

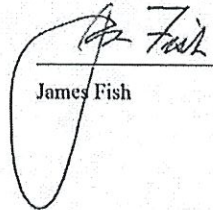
AUTHORIZATION

We, Tracy and James Fish, hereby authorize Marian Rose, Esquire, or any other attorney at the Law Office of Singer & Singer, LLC, of Dennisport, Massachusetts, to represent me and in my name, as Authorized Agent, to do all things necessary with respect to any application, including but not limited to, the signing of any application filed on my behalf with the Town of _____ Harwich, or any Department, Board or Committee thereof, or any documents required in connection with any such filing, for the property located at 61 Shore Road, West Harwich, Barnstable County, Massachusetts.

EXECUTED as a sealed instrument this 21st day of November, 2022.



Tracy Fish



James Fish



R28-501









