



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 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:

- (X) Appeal from decision of or refusal of permit application by the Building Inspector, Selectmen or Planning Board or other administrative officer or officers.
(X) Application for a Variance from requirements of the Harwich Zoning By-Law.
(X) 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:

8 Cottage Avenue, Harwich Port, MA 02646. Said property is further described on

Assessor's Map # 6 and Parcel # G1-5-1-0 located in the R-H-1 Zoning District as shown on the attached plan.

Describe Petition/Appeal: See attached

Relief requested - Cite specific Bylaw Section(s): See attached correspondence from Building Commissioner.

Signature of Owner (or Agent) [Signature] Date 5/25/23
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name Lorraine A. Paoella Phone No. 508-432-1643

Mailing Address: 66 High Street, Unit 24, Guilford, CT 06437

Agent Name: William D. Crowell, Esq. Phone No. 508-432-1643

Mailing Address: 466 Main Street, Harwich Port, MA 02646

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

If yes, the date of original hearing 1/31/90 Petition No. 90-7 Decision Grant Special Permit

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.

RECEIVED
TOWN CLERK
HARWICH, MA
2023 MAY 26 PM 3:55

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.**

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2023 MAY 26 P 3:55

Name of Applicant: Lorraine A. Paoella

Address of Property: 8 Cottage Avenue, Harwich Port, MA 02646

Zoning District: R-H-1

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: 1991

Name/Address of Engineer/Architect: unknown

Name/Address of Attorney: William D. Crowell, Esq., 466 Main Street, Harwich Port, MA 02646

	Required by Bylaw	Existing	Proposed
Lot Area	40,000	5,680	5,680
Frontage	150'	70.75'	70.75'
Front Yard Setback	25'	24.7'	24.7'
Side yard Setback	20'	8.9'	8.9'
2 <sup>nd</sup> Side Yard Setback	20'	9.6'	9.6'
Rear Yard Setback	20'	6.4'	6.4'
Building Coverage	30%	27.8%	28.1%
Site Coverage	35%	65%	65%
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: 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:  Date: 5/22/23

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

RECEIVED  
TOWN CLERK  
HARWICH, MA  
MAY 26 P 3:55

**wcrowell.office1@comcast.net**

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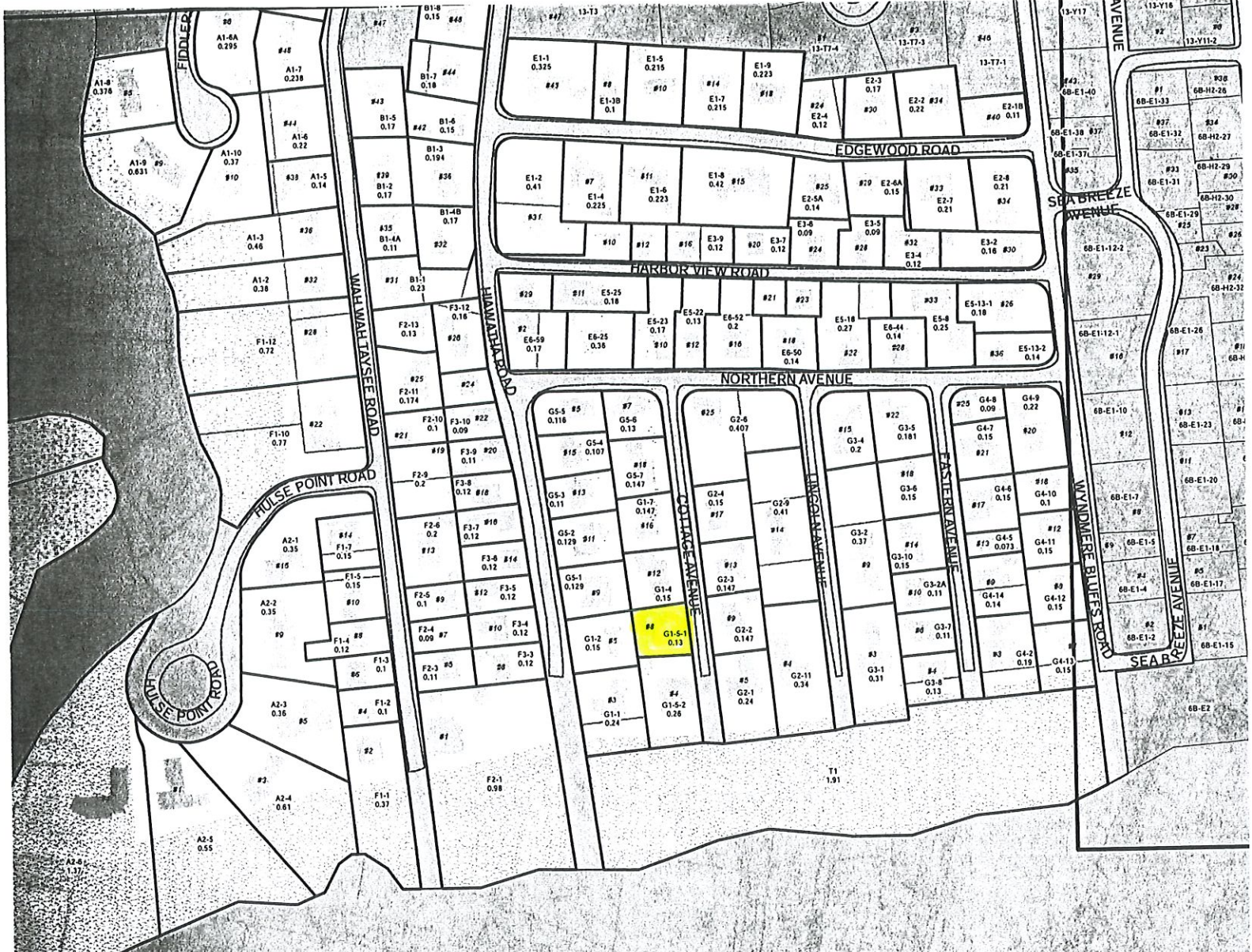
**From:** Lorraine Paoella <rainyp1952@gmail.com>  
**Sent:** Tuesday, May 9, 2023 4:20 PM  
**To:** wcrowell.office1@comcast.net  
**Subject:** 8 Cottage Ave Harwichport

I, Lorraine A. Paoella, owner of 8 Cottage Avenue, hereby authorize William D. Crowell, Esq. to represent me before the Town of Harwich Zoning Board of Appeals.

Thank you,

Lorraine A. Paoella

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HARWICH, MA  
2023 MAY 26 P 3:55



2023 MAY 26 P 3:55  
 HARWICH, MA  
 HARWICH, MA

**TOWN OF HARWICH**  
**ASSESSORS MAP**  
 January 2022

Use in conveyancing or for  
 The Town of Harwich and its  
 liable for any reuse of this information.

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



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

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

**By First Class Mail**

April 4, 2023

Lorraine A Paoella  
66 High Street, Unit 24  
Guilford, CT 06437

Re: Zoning Relief Required  
Building Permit Application BP-23-284  
8 Cottage Ave, Harwich, MA (Parcel ID 6-G1-5-1)  
Zoning District RH-1

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TOWN CLERK  
HARWICH, MA  
2023 MAY 26 P 3:55

Dear Lorraine Paoella

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 17, 2022

*Harwich Zoning Bylaw §325-54 "Nonconforming structures and uses."  
§325-54(2)(b) increase of habitable floor area*

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.

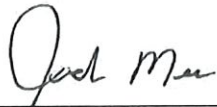
I also reserve the right, should you not expeditiously and continuously proceed with obtaining the required zoning relief or otherwise withdraw the building permit application, to deny the building permit application for incompleteness, or inconsistency with zoning, or both.

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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HARWICH, MA  
2023 MAY 26 P 3:55



TOWN OF HARWICH  
ASSESSORS OFFICE

732 MAIN STREET  
HARWICH, MASSACHUSETTS 02645

TOWN OF HARWICH

MAY 25 2023

ASSESSORS OFFICE

\*\* Please email all Abutters Requests to [assessing@town.harwich.ma.us](mailto:assessing@town.harwich.ma.us)

OFFICE OF  
BOARD OF ASSESSORS

Tel: 508-430-7503

Fax: 508-430-7086

**ABUTTERS REQUEST FORM**

Board Requesting Action: Zoning Board of Appeals

Date Submitted: May 25, 2023

Applicant's Name: Lorraine A. Paolella

Assessors Map(s) & Parcel(s): 6-G1-5-1-0

Property Location: 8 Cottage Avenue, Harwich Port, MA 02646

Owner(s): Lorraine A. Paolella

Contact Person: William D. Crowell, Esq.

E-mail Address: [wcrowell.office1@comcast.net](mailto:wcrowell.office1@comcast.net)

I hereby certify that the names and addresses on the attached or preceding sheet (s) are of the owners as they appear in the assessing departments most recent computerized tax list

Telephone #: 508-432-1643

Type of Petition: Special Permit

Assessors Approval By: *M. Crowell* 5/25/23

**INVOICE**

*This cover sheet is also your invoice.*

	<u>Amount</u>	<u>Date Paid</u>	<u>Ck #</u>
Up to 25 Abutters	\$50.00	5/25/23	54657
Additional Abutters _____ @ \$2.00 ea	_____	_____	_____
<b>TOTAL</b>	_____	_____	_____

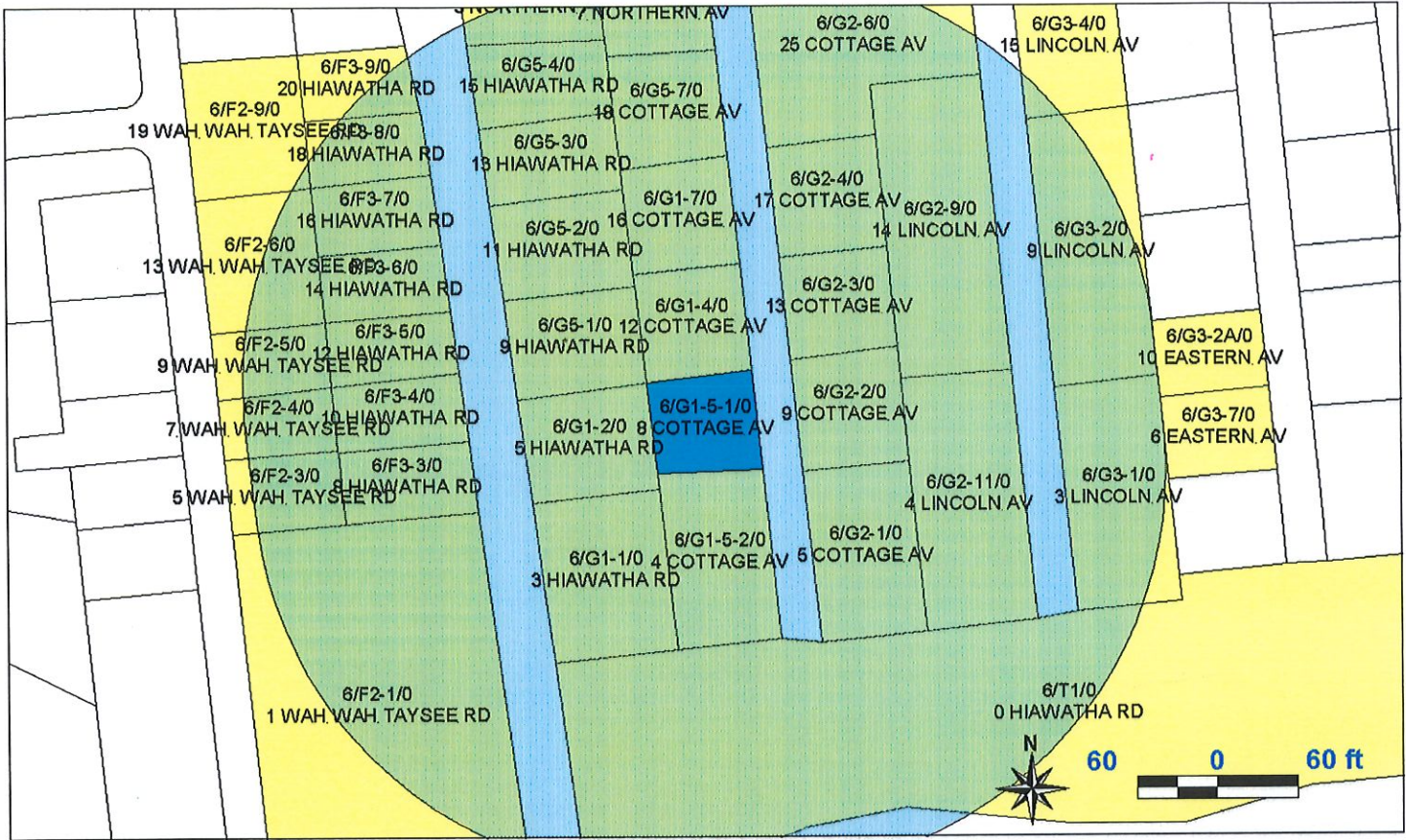
Make checks payable to: Town of Harwich





TOWN OF HARWICH, MA  
 BOARD OF ASSESSORS  
 732 Main Street, Harwich, MA 02645

Abutters List Within 300 feet of Parcel 6/G1-5-1/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
838	6-F2-1-0-R	DURST DOUGLAS TR WENDY AND DOUGLAS KREEGER 2012	1 WAH WAH TAYSEE RD	C/O DURST ONE BRYANT PARK 409 NORTH BROADWAY	NYCK	NY	10960
839	6-F2-3-0-R	MCNEIL PAUL M TRS ET AL MCNEIL SUSAN TRS, ROBERT D JR	5 WAH WAH TAYSEE RD	50 PROUNTY LN	WORCESTER	MA	01602
840	6-F2-4-0-R	FARRIS KEITH E TRS ET AL FARRIS JUNE M TRS	7 WAH WAH TAYSEE RD	7 WAH WAH TAYSEE RD	HARWICH PORT	MA	02646
8169	6-F2-5-0-R	SAMSON PAUL S & SAMSON JUDITH L	9 WAH WAH TAYSEE RD	45 LITTLEFIELD RD	NEWTON	MA	02158
841	6-F2-6-0-R	GISO DEBORAH J	13 WAH WAH TAYSEE RD	PO BOX 661	HARWICH PORT	MA	02646
843	6-F2-9-0-R	SCHERCK CAPE COD LLC	19 WAH WAH TAYSEE RD	3790 LONGVIEW CT	JUPITER	FL	33477
8170	6-F3-3-0-R	BOOTH CATHERINE A TR EILEEN F SULLIVAN IRREVOCABLE	8 HIAWATHA RD	42 FEDERAL HILL RD	HOLLIS	NH	03049
847	6-F3-4-0-R	COHEN SCOTT J & COHEN ANDRIA	10 HIAWATHA RD	69 PRINCETON RD	ARLINGTON	MA	02474
848	6-F3-5-0-R	FOGAREN DAVID C TRS ET AL FOGAREN LISA M TRS	12 HIAWATHA RD	75 BIRCHWOOD RD	TEWKSBURY	MA	01876
849	6-F3-6-0-R	DEL TATTO CHARLES D & DEL TATTO MARY	14 HIAWATHA RD	14 HIAWATHA RD	HARWICH PORT	MA	02646
850	6-F3-7-0-R	HENRY MARY S TRS ET AL HENRY TIDAL B JR TRS	16 HIAWATHA RD	16 HIAWATHA RD	HARWICH PORT	MA	02646
851	6-F3-8-0-R	CROOKER WILLIAM R & CROOKER TIFFANY A	18 HIAWATHA RD	28 NORMANDY RD	LEXINGTON	MA	02421
852	6-F3-9-0-R	SCHERCK CAPE COD LLC	20 HIAWATHA RD	3790 LONGVIEW CT	JUPITER	FL	33477
856	6-G1-1-0-R	ROBINSON MARK S TR JEFFREY D ROBINSON IRREVOCABLE	3 HIAWATHA RD	148 ROWE ST	MELROSE	MA	02176
858	6-G1-2-0-R	BRASSARD ELLEN M TR ELLEN M BRASSARD 2007 TRUST	5 HIAWATHA RD	5 HIAWATHA RD	HARWICH PORT	MA	02646

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
859	6-G1-4-0-R	BURKE THOMAS J & BURKE REGINA A	12 COTTAGE AV	270 MURRAY AVE	DELMAR	NY	12054
862	6-G1-7-0-R	MARTIN ESTHER S TRS ET AL CONNIFF JAMES D TRS	16 COTTAGE AV	96 HENDRICK RD	BOXFORD	MA	01921
860	6-G1-5-1-0-R	PAOLELLA LORRAINE A	8 COTTAGE AV	66 HIGH ST UNIT 24	GUILFORD	CT	06437
861	6-G1-5-2-0-R	SULLIVAN JOHN,DEBORAH ET ALS HARRIS MICHAEL,COOPER STEVEN	4 COTTAGE AV	7 HIGH ST	IPSWICH	MA	01938
863	6-G2-1-0-R	COSTELLO MARY ELLEN ET ALS TRS 1698 CENTRE STREET REALTY TRUS	5 COTTAGE AV	5400 HIGHWAY A1A UNIT A-14	VERO BEACH	FL	32963
864	6-G2-2-0-R	DOLAN THOMAS TRS ET ALS DOLAN BRIAN F & ELIZABETH	9 COTTAGE AV	67 BRIARWOOD CIR UNIT 507	WORCESTER	MA	01606
865	6-G2-3-0-R	OCONNOR BRENDAN TRS ET AL OCONNOR CLAIRE TRS	13 COTTAGE AV	26 TOWNSEND DR	W BOYLSTON	MA	01583
8172	6-G2-4-0-R	DUCOMB JEFFREY C ET ALS DUCOMB LAURENCE E, STEVEN W	17 COTTAGE AV	2650 HOUNDS CHASE	TROY	MI	48098
866	6-G2-6-0-R	CARTER MARK H TRS ET AL CARTER SAMANTHA D TRS	25 COTTAGE AV	10 CRANMORE RD	WELLESLEY	MA	02481
869	6-G2-9-0-R	COX BARRY M	14 LINCOLN AV	14 LINCOLN AV	HARWICH PORT	MA	02646
897	6-G2-11-0-R	DEAN JUDITH ANN	4 LINCOLN AV	375 RIDGE RD	WETHERSFIELD	CT	06109
871	6-G3-1-0-R	DOLAN BRIAN TR DOLAN ELIZABETH TR	3 LINCOLN AV	6 SPRUCE MEADOW CT	WILTON	CT	06897
872	6-G3-2-0-R	GUTNICK LAURA B TR ELEANOR STANTON COTTAGE TRUST	9 LINCOLN AV	6853 REYNOLDS ST	PITTSBURGH	PA	15208
8175	6-G3-4-0-R	HAWKOM KATHERINE	15 LINCOLN AV	104 HIGH ROCK ST	NEEDHAM	MA	02492
8179	6-G3-7-0-R	RIZZO MICHAEL A TRS ET AL RIZZO MARYANNE TRS	6 EASTERN AV	21 RIDGE RD	WALPOLE	MA	02081
8174	6-G3-2A-0-R	GESING E FRANK ET AL GESING ELIN M	10 EASTERN AV	10 EASTERN AV	HARWICH PORT	MA	02646
889	6-G5-1-0-R	WILLY CLIFFORD N & WILLY REBECCA L	9 HIAWATHA RD	961 SWEETRUM VALLEY PLACE	LAKE MARY	FL	32745
890	6-G5-2-0-R	PLOTNER ANDREW G & PLOTNER KARRIN W	11 HIAWATHA RD	12 MAY ST	NEEDHAM	MA	02492
8180	6-G5-3-0-R	CROKE JAMES P TRS ET AL CROKE BRENDA M TRS	13 HIAWATHA RD	13 HIAWATHA RD	HARWICH PORT	MA	02646
891	6-G5-4-0-R	YAVEL DAVID M TR 15 HIAWATHA ROAD REALTY TRUST	15 HIAWATHA RD	321 MILL SPRING RD	MANHASSET	NY	11030
892	6-G5-5-0-R	DOHERTY EDMUND J TRS ET AL C/O DOHERTY EDMUND J TR	5 NORTHERN AV	17 GINN RD	WINCHESTER	MA	01890-2606
893	6-G5-6-0-R	WOLF MARTHA J ET ALS SHIFRIN EMILY,WALTHALL NANCY	7 NORTHERN AV	550 MISSOURI AVE	CINCINNATI	OH	45226
894	6-G5-7-0-R	HYNES MICHAEL J JR & HYNES MARY L	18 COTTAGE AV	14 SHEAFE ST	CHESTNUT HILL	MA	02467
895	6-T1-0-R	BURLINGAME DONNA TRS ET ALS WYNDEMERE BEACH TRUST	0 HIAWATHA RD	263 SERVICE RD	E SANDWICH	MA	02537

6-F2-1-0-R	DURST DOUGLAS TR WENDY AND DOUGLAS KREEGER 2012 C/O DURST ONE BRYANT PARK 409 NORTH BROADWAY NYCK, NY 10960	6-F2-3-0-R	MCNEIL PAUL M TRS ET AL MCNEIL SUSAN TRS, ROBERT D JR 50 PROUNTY LN WORCESTER, MA 01602	6-F2-4-0-R	FARRIS KEITH E TRS ET AL FARRIS JUNE M TRS 7 WAH WAH TAYSEE RD HARWICH PORT, MA 02646
6-F2-5-0-R	SAMSON PAUL S & SAMSON JUDITH L 45 LITTLEFIELD RD NEWTON, MA 02158	6-F2-6-0-R	GISO DEBORAH J PO BOX 661 HARWICH PORT, MA 02646	6-F2-9-0-R	SCHERCK CAPE COD LLC 3790 LONGVIEW CT JUPITER, FL 33477
6-F3-3-0-R	BOOTH CATHERINE A TR EILEEN F SULLIVAN IRREVOCABLE 42 FEDERAL HILL RD HOLLIS, NH 03049	6-F3-4-0-R	COHEN SCOTT J & COHEN ANDRIA 69 PRINCETON RD ARLINGTON, MA 02474	6-F3-5-0-R	FOGAREN DAVID C TRS ET AL FOGAREN LISA M TRS 75 BIRCHWOOD RD TEWKSBURY, MA 01876
6-F3-6-0-R	DEL TATTO CHARLES D & DEL TATTO MARY 14 HIAWATHA RD HARWICH PORT, MA 02646	6-F3-7-0-R	HENRY MARY S TRS ET AL HENRY TIDAL B JR TRS 16 HIAWATHA RD HARWICH PORT, MA 02646	6-F3-8-0-R	CROOKER WILLIAM R & CROOKER TIFFANY A 28 NORMANDY RD LEXINGTON, MA 02421
6-F3-9-0-R	SCHERCK CAPE COD LLC 3790 LONGVIEW CT JUPITER, FL 33477	6-G1-1-0-R	ROBINSON MARK S TR JEFFREY D ROBINSON IRREVOCABLE 148 ROWE ST MELROSE, MA 02176	6-G1-2-0-R	BRASSARD ELLEN M TR ELLEN M BRASSARD 2007 TRUST 5 HIAWATHA RD HARWICH PORT, MA 02646
6-G1-4-0-R	BURKE THOMAS J & BURKE REGINA A 270 MURRAY AVE DELMAR, NY 12054	6-G1-7-0-R	MARTIN ESTHER S TRS ET AL CONNIFF JAMES D TRS 96 HENDRICK RD BOXFORD, MA 01921	6-G1-5-1-0-R	PAOLELLA LORRAINE A 66 HIGH ST UNIT 24 GUILFORD, CT 06437
6-G1-5-2-0-R	SULLIVAN JOHN, DEBORAH ET ALS HARRIS MICHAEL, COOPER STEVEN 7 HIGH ST IPSWICH, MA 01938	6-G2-1-0-R	COSTELLO MARY ELLEN ET ALS TRS 1698 CENTRE STREET REALTY TRUS 5400 HIGHWAY A1A UNIT A-14 VERO BEACH, FL 32963	6-G2-2-0-R	DOLAN THOMAS TRS ET ALS DOLAN BRIAN F & ELIZABETH 67 BRIARWOOD CIR UNIT 507 WORCESTER, MA 01606
6-G2-3-0-R	OCONNOR BRENDAN TRS ET AL OCONNOR CLAIRE TRS 26 TOWNSEND DR W BOYLSTON, MA 01583	6-G2-4-0-R	DUCOMB JEFFREY C ET ALS DUCOMB LAURENCE E, STEVEN W 2650 HOUNDS CHASE TROY, MI 48098	6-G2-6-0-R	CARTER MARK H TRS ET AL CARTER SAMANTHA D TRS 10 CRANMORE RD WELLESLEY, MA 02481
6-G2-9-0-R	COX BARRY M 14 LINCOLN AV HARWICH PORT, MA 02646	6-G2-11-0-R	DEAN JUDITH ANN 375 RIDGE RD WETHERSFIELD, CT 06109	6-G3-1-0-R	DOLAN BRIAN TR DOLAN ELIZABETH TR 6 SPRUCE MEADOW CT WILTON, CT 06897
6-G3-2-0-R	GUTNICK LAURA B TR ELEANOR STANTON COTTAGE TRUST 6853 REYNOLDS ST PITTSBURGH, PA 15208	6-G3-4-0-R	HAWKOM KATHERINE 104 HIGH ROCK ST NEEDHAM, MA 02492	6-G3-7-0-R	RIZZO MICHAEL A TRS ET AL RIZZO MARYANNE TRS 21 RIDGE RD WALPOLE, MA 02081

6-G3-2A-0-R

GESING E FRANK ET AL  
GESING ELIN M  
10 EASTERN AV  
HARWICH PORT, MA 02646

6-G5-1-0-R

WILLY CLIFFORD N &  
WILLY REBECCA L  
961 SWEETTRUM VALLEY PLACE  
LAKE MARY, FL 32745

6-G5-2-0-R

PLOTNER ANDREW G &  
PLOTNER KARRIN W  
12 MAY ST  
NEEDHAM, MA 02492

6-G5-3-0-R

CROKE JAMES P TRS ET AL  
CROKE BRENDA M TRS  
13 HIAWATHA RD  
HARWICH PORT, MA 02646

6-G5-4-0-R

YAVEL DAVID M TR  
15 HIAWATHA ROAD REALTY TRUST  
321 MILL SPRING RD  
MANHASSET, NY 11030

6-G5-5-0-R

DOHERTY EDMUND J TRS ET AL  
C/O DOHERTY EDMUND J TR  
17 GINN RD  
WINCHESTER, MA 01890-2606

6-G5-6-0-R

WOLF MARTHA J ET ALS  
SHIFRIN EMILY, WALTHALL NANCY  
550 MISSOURI AVE  
CINCINNATI, OH 45226

6-G5-7-0-R

HYNES MICHAEL J JR &  
HYNES MARY L  
14 SHEAFE ST  
CHESTNUT HILL, MA 02467

6-T1-0-R

BURLINGAME DONNA TRS ET ALS  
WYNDEMERE BEACH TRUST  
263 SERVICE RD  
E SANDWICH, MA 02537

**Paoella – 8 Cottage Avenue, Harwich Port**

The Petitioner seeks a Special Permit to remove an existing porch and construct in its place a habitable, enclosed sitting area as per the Existing Conditions Plot Plan dated August 2, 2022 and Proposed Conditions Plot Plan dated November 17, 2022 both by Moran Engineering Associates, LLC and the Building and Elevation Plans dated March 2, 2023 by McPhee Associates, Inc. Pages A1 – 2 and EX 1–2.

Section 325–54. Non-conforming Structures and Uses. A.(2)(b) of the By-Law allows for a Special Permit for a structure built in the same footprint that does increase the habitable floor area. In addition, since the existing site coverage is already non-conforming at 65% (35% max.) Section 325–54 A. (1)(a) [1] of the Bylaw requires a Special Permit even if the site coverage is not increasing. This is because the existing site coverage is non-conforming and therefore the structure cannot be altered “by right” because it does not meet current coverage requirements as required by the aforesaid section of the By-Law (copy enclosed).

Finally, although there will be a very small increase in building coverage from 27.8% to 28.1% the increase will still be less than the 30% maximum and the existing setbacks shown on said Plot Plan will remain unchanged.

In summary, this Board may make a finding to grant a Special Permit due to the fact that the proposed addition will not constitute a substantial detriment to the entire neighborhood.

In the alternative, a Variance is requested for the aforementioned addition.

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**§ 325-53. Other requirements.**

The granting of any appeal by a permit granting authority shall not exempt the applicant from compliance with any applicable provisions of the Zoning Bylaw not specifically varied by the Board of Appeals.

**§ 325-54. Nonconforming structures and uses.****A. Nonconforming structures.****(1) Alteration or extension of single- or two-family residential structure.**

(a) A preexisting nonconforming single- or two-family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:

- [1] The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located; and
- [2] The nonconformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure.

(b) In addition, a preexisting nonconforming single- or two-family structure may be altered by right through the addition of a dormer or dormers if the Building Official determines that it meets the following criteria:

- [1] The proposed dormer or dormers do not allow for any increase in the square footage of the single- or two-family dwelling; and
- [2] The nonconformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure.

(c) In making such determination, the Building Official, after identifying the particular respect or respects in which the structure or lot does not presently conform to the Zoning Bylaw, shall consider whether the proposed addition/extension meets the criteria stated above. If the Building Official determines that the addition/extension meets the criteria stated above, the Building Official may allow the addition/extension or rebuild by right.

(2) If the Building Official determines that a proposed addition/extension to a nonconforming single- or two-family residential structure increases the nonconforming nature of the structure, the applicant may seek a new determination from the Board of Appeals. If the Board of Appeals determines that the alteration or extension will increase the nonconforming nature of the structure, no such alteration or extension may occur unless the Board of Appeals issues a special permit for alteration or extension after finding that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconformity. An addition/extension that increases the nonconforming nature of the structure would include:

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- (a) A structure built in the same footprint to an increased building height.
  - (b) A structure built in the same footprint that does increase the habitable floor area.
  - (c) A structure that continues along the same line as an existing encroachment without increasing that encroachment.
- (3) A single- or two-family residential structure is determined to be demolished and replaced if the area of the existing structure to be removed meets the definition of "demolition" in this bylaw.<sup>20</sup>
  - (4) A lawfully preexisting nonconforming single- or two-family residential structure may, by right, be demolished and replaced with a new structure on the same site, provided that:
    - (a) The proposed new construction will conform to current setbacks and coverage for the zoning district in which the lot is located; and
    - (b) The nonconformance concerns the size of the lot in question and/or the frontage of said lot.
  - (5) A lawfully preexisting nonconforming single- or two-family residential structure may, by special permit, be demolished and replaced with a new structure on the same site, provided that it is determined by the Board of Appeals that:
    - (a) The replacement of the structure will not be substantially more detrimental to the neighborhood than the existing structure;
    - (b) The replacement of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town;
    - (c) The replacement structure will not increase any of the following existing nonconformances: building coverage, site coverage, or setback encroachment;
    - (d) The replacement structure will reduce at least one of the following existing nonconformances: building coverage, site coverage, or setback encroachment; and
    - (e) The replacement structure may not increase the habitable square footage of the structure by more than 25% over the habitable square footage of the existing structure over a ten-year period beginning on the date of the issuance of the special permit by the Board of Appeals.
  - (6) A proposal to demolish and replace a single- or two-family residential structure which will increase the nonconforming nature of the structure will require a variance from the Board of Appeals pursuant to MGL c. 40A, § 10.
  - (7) Alteration or extension of other structures.

20. Editor's Note: See § 325-2.

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On January 31, 1990 the Harwich Board of Appeals held a public hearing on the petition of Richard Monaghan who is the owner of the property at N Cottage Ave, Harwich Port, MA as shown on Assessor's Map 16, Parcel C-1-A L in the R-H-1 Zoning District who sought an extension of a non-conforming structure on a non-conforming lot to add a second floor to the existing dwelling. The lot does not meet the required lot area and lot frontage.

After the hearing, the Board made the following findings:

1. The Petitioner wants to construct a second floor on the existing dwelling.
2. The footprint of the structure will not change.
3. The lot in question contains 5600 sq. ft. of area.
4. The dwelling will go from a three bedroom to a four bedroom structure.
5. The septic system will be designed for a five bedroom dwelling.

Based on the facts found, the Board voted 4-1 to grant the petition as requested to construct a second floor addition. The proposed extension will not be substantially more detrimental to the neighborhood than the pre-existing non-conformity.

MEMBERS VOTING TO GRANT:

Sauvage, Jussila, Ferreira, Flynn.

MEMBER VOTING TO DENY:

Ogborne.

HARWICH BOARD OF APPEALS

*William J. Jussila*

WILLIAM J. JUSSILA, CHAIRMAN

TO THE BUILDING INSPECTOR:

This Board of Appeals decision has been recorded at the Registry of Barnstable on \_\_\_\_\_ date

TRANSACTION # \_\_\_\_\_



20 days have elapsed since the filing of the foregoing decision in the office of the Clerk of the Town of Harwich, and no appeal from said decision has been filed.

A true copy, March 8, 1990

Seal:

Attest:

*Ruth B. Ericson*  
Ruth B. Ericson, Harwich Town Clerk

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*Ericson vs. Sak 1 Pl. 23176-B*