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782 Main Street, Harwich, Massachusetts 02645

TOWN OF HARWICH

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:

- (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:

2 Pilgrim Road, Harwich Port, MA 02646. Said property is further described on

Assessor's Map #7 and Parcel # C16-0 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 8/22/23
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name Rudolph Hernandez and Robin Hernandez, Trustees of the Hernandez Living Trust, u/d/t dated June 9, 2006 Phone No. 508-432-1643

Mailing Address: 1269 Hanover Place, San Luis Obispo, CA 93401

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) (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: Rudolph Hernandez and Robin Hernandez, Trustees of the Hernandez Living Trust, u/d/t dated June 9, 2006

Address of Property: 2 Pilgrim Road, 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: 1950

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	10,000	10,000
Frontage	150'	100'	100'
Front Yard Setback	25'	48.1	55.3
Side yard Setback	20'	21.1	24.6
2 nd Side Yard Setback	20'	10.1	10.1
Rear Yard Setback	20'	9.3	9.3
Building Coverage	30%	20.9%	23.4%
Site Coverage	35%	61.5%	61.5%
Building Height	<30'	38.1 less 10.5 Avg. grade = 27.5	38.1 less 10.5 Avg. grade = 27.5
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: 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: 8/22/23

Owner's Signature: _____ Date: _____

wcrowell.office1@comcast.net

From: hfitinc@gmail.com
Sent: Friday, August 18, 2023 11:36 AM
To: wcrowell.office1@comcast.net; robinahernandez@gmail.com
Cc: 'Lorraine Madrona'; robinahernandez@gmail.com
Subject: RE: 2 Pilgrim Road Harwich - Hernandez - ZBA Filing
Attachments: Doc - Aug 18 2023 - 11-35 AM.pdf

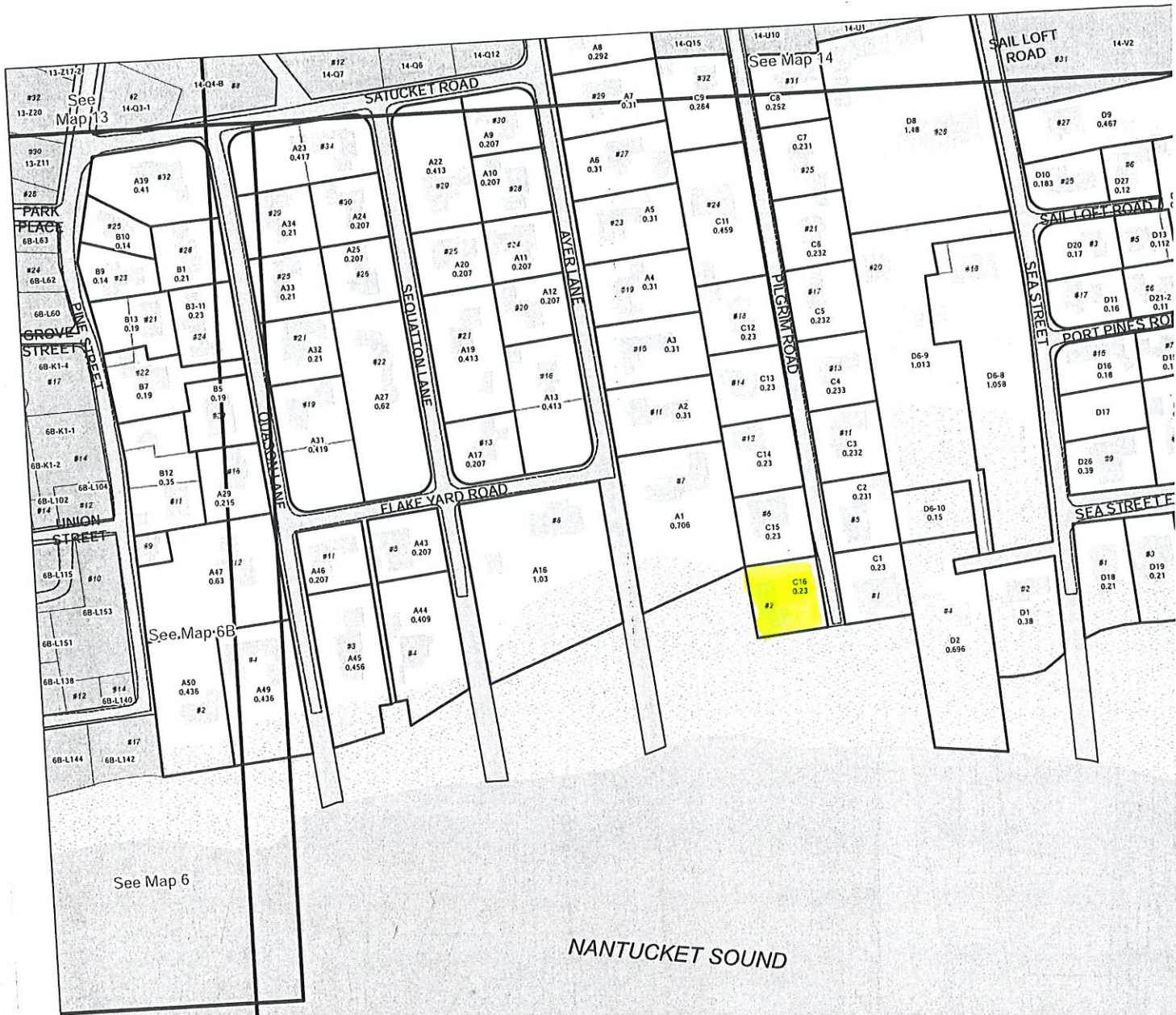
As requested.

Rudy and Robin

We, Rudolph Hernandez and Robin Hernandez, Trustees of the Hernandez Living Trust, u/d/t dated June 9, 2006, owners of 2 Pilgrim Road, Harwich Port, hereby authorize William D. Crowell Esq. to represent us before the Town of Harwich Zoning Board of Appeals regarding the same.

Thank you,

Rudolph Hernandez and Robin Hernandez, Trustees



TOWN OF HARWICH

Building Department

732 Main Street

Harwich, MA 02645



Telephone: (508) 430-7506

By First Class Mail

August 15, 2023

Rudolph Hernandez TRS ET ALS

Robin Hernandez TRS

1269 Hanover Place

San Luis Obispo, CA 93401

Re: Zoning Relief Required
Building Permit Application BP-23-760
2 Pilgrim Road, Harwich, MA (Assessor's Map 7, Parcel C-16-0)
Zoning District R-H-1

Dear Rudolph & Robin,

Please be advised that as a condition to issuance of the above-referenced building permit as submitted, shown on a plan prepared by Clark Engineering LLC. dated 7/18/2023 we cannot issue without relief listed below.

Harwich Zoning Bylaw §325-21, table 3, Height and Bulk Regulations

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.

The Town 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: Rick Roy, File

Hernandez – 2 Pilgrim Road

The Petitioners request a Special Permit to construct a covered porch facing Pilgrim Road and a deck and spiral staircase to the second floor deck on the southwest corner of the pre-existing, non-conforming single-family residence as per the Certified Plot Plan by Clark Engineering LLC dated July 18, 2023 and the Building and Elevation Plans by Rick Roy Construction LLC dated July 25, 2023, Sheets A1-4 attached hereto. Also attached are previous building and elevation plans and floor plans by Thomas A. Moore Design Co. dated March 6, 2015 Sheets A1-4. The covered porch will meet the northerly setback at 24.6 feet (20 feet required) as well as the easterly setback to Pilgrim Road at 55.3 feet (25 feet required). The proposed deck on the southwest corner of the existing dwelling will continue along the same line as the westerly side of the dwelling at 9.3 feet with the spiral staircase to the second floor deck coming somewhat closer to the westerly bound; however, the existing deck is already .6 feet from the westerly bound so that the proposed deck and spiral staircase are not coming any closer to the westerly boundary line than the existing deck at .6 feet.

It should be noted that the proposed additions will not create any new habitable space to the existing dwelling.

The existing building coverage is 20.9% (30% max.) and will increase slightly to 23.4% but is still conforming. The existing site coverage is non-conforming at 61.5% (35% max.) and as shown on the Certified Plot Plan 203 feet of the existing walkway will be removed to compensate for the proposed additional square footage so that the site coverage will remain at 61.5%.

Since the proposed deck and spiral staircase will not meet current setback requirements of 20 feet a Special Permit from this Board is required to alter and extend the existing dwelling. However, pursuant to the findings in the Gale Case this Board has the authority to make a finding that the additions will intensify an existing non-conformity on the westerly side of the dwelling but will not constitute a substantial detriment to the entire neighborhood.

In the alternative, the Petitioners request a Variance for the aforementioned additions.