

# Law Office of Singer & Singer, LLC

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Harwich Board of Appeals

61 Shore Road, West Harwich

## **SUMMARY OF REASONING**

Tracy and Jim Fish [collectively “Applicants”] own the waterfront property at 61 Shore Road, West Harwich [“Property”]. The Property, which is shown as Parcel B1-1 on Harwich Assessors Map 2, is located in the R-L Zoning District and is improved with a two-story, single-family dwelling, deck and dock. The existing structure is pre-existing nonconforming as to both east and west-side setbacks and, marginally, as to height. The lot is nonconforming as to lot size (28,124 +/- sq. ft existing, 40,000 sq. ft. required) and lot frontage (75.60 +/- ft. existing, 150 ft. required). Front and rear yard setbacks, building coverage and site coverage are each conforming.

The Applicants propose to raze the existing two-story structure and construct a two-story, single-family home with a patio and pool which will be less nonconforming as to both east and west-side setbacks and conforming as to height. The proposed structure will be less nonconforming as to side setbacks on both the east and west sides by roughly two feet on either side. The proposed dwelling will be shifted further away from the fifty-foot resource buffer area and a significant portion of the structure will be located outside of the one-hundred foot resource buffer area. Site coverage and building coverage will remain conforming. Relief is required because portions of the existing dwelling are located within setbacks and because the proposed new construction does not meet the current setback requirements.

The project has undergone review from various Town departments. The Conservation Commission has reviewed the proposed construction, the Applicants have been responsive to Commission comments and the Commission has approved the plan as submitted to this Board. The number of bedrooms for the existing and proposed dwelling (5) will remain the same. Board of Health review is not anticipated as the site is Title V compliant and no variances are required or sought.

Neighbors have also reviewed the project. Two adjacent abutters, the Nolans of 55 Shore Road, and the Cormiers of 65 Shore Road, have submitted letters in support of the project.

The Applicants are seeking a Special Permit under Section 325-54(A)(5) of the Harwich Zoning By-Law [“Zoning By-Law”] and M.G.L. Chapter 40A, Section 6, in order to complete the work as shown on the submitted plans. Under the Harwich Zoning By-Law, pre-existing nonconforming single-family residential structures may be demolished and replaced by Special Permit upon a showing that the proposal will not be substantially more detrimental to the neighborhood than the existing nonconformities and that one of the dimensional nonconformities of the structure will be improved.

The Applicants respectfully submit that the proposal will not be substantially more detrimental to the neighborhood than the existing conditions because:

1. There will be no change in the use of the Property for a permitted single-family residential use;
2. No new nonconformities will be created (10.7 % or 3,015 sq. feet existing, 13.4 % or 3,766 sq. feet proposed) will remain conforming (15% or 4,218 sq. feet allowed). Site coverage also will remain conforming (25.6% or 7,193 sq. feet existing, 27.3% or 7685 sq. feet proposed, 30% or 8,427 sq. feet maximum allowed);

3. The project, as proposed, will decrease both east and west-side setback nonconformities (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) and eliminate the height nonconformity and height (30.2 ft. existing, 30 feet maximum allowed);
4. The proposed plan demonstrates clear environmental benefits by pulling the dwelling and a significant portion of the patio outside of the fifty-foot wetland resource buffer area and an even larger portion outside of the 100 foot wetland resource buffer. The Harwich Conservation Commission has reviewed and approved the project and issued an Order of Conditions; The Property is compliant under Title V and the project will not add additional bedrooms. It is not anticipated that the Board of Health will require action or additional permitting;
5. The replacement structure is appropriately-sized for the lot and surrounding renovated structures and is compatible in terms of size and scope with the character of the neighborhood and is supported by the Applicants' immediate abutters;
6. There is adequate off-street parking for the continued residential use of the Property, and no change in traffic flow is expected; and
7. The proposal will not create any nuisance, hazard or congestion or any harm to the neighborhood nor adversely affect the public health, safety, convenience or general welfare of the Town.

For all of the above reasons, the Applicants respectfully request that the Board make a finding that the proposal will not be substantially more detrimental to the neighborhood and grant a Special Permit allowing the project to be completed as shown on the submitted plans.