

Law Office of Singer & Singer, LLC

26 Upper County Road
P. O. Box 67
Dennisport, Massachusetts 02639

Andrew L. Singer
Marian S. Rose

Myer R. Singer (1938-2020)

Tel: (508) 398-2221
Fax: (508) 398-1568
www.singer-law.com

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Zoning Board of Appeals

Amended Narrative

Town Counsel recently issued a response to questions posed by the Harwich Planning Board regarding whether the Applicant's request for a Special Permit to alter and expand the hotel/motel use on the Property should be heard by the Zoning Board of Appeals or the Planning Board. Town Counsel advised that the Zoning Board of Appeals rather than the Planning Board has jurisdiction over the request. The Applicant subsequently amended its original Zoning Board of Appeals hearing request, which initially included a request for a special permit to allow an increase in pre-existing nonconforming amenities coverage, to also include a request for a special permit as required under Harwich Zoning By-Law Section 325-54 (B) to alter and extend the pre-existing nonconforming hotel/motel use on the Property.

Property: The proposed project is located at the Wequassett Resort & Golf Club property located at 2173 Route 28, Harwich, MA, and, in a more limited fashion, at an adjacent property, 4 Cove Road, which have been merged by a recorded 81X plan with the 2173 Rt. 28 and 2 Swan Drive parcels (the "Property") (81X plan recorded as Plan Book 700, Pages 96-97). The Property is entirely within the RH-2 zoning district and the Property, as merged, contains an existing hotel/motel use (Resort) and an existing and not-to-be-altered by this application residential use (4 Cove Landing).

Proposed Project: The Applicant seeks to raze and replace three existing one-story buildings (#1, #2, and #11 as proposed three identical two-story buildings, A, B, and K respectively) on the Property. In addition, the project includes hardscape/landscape improvements that run along Round Cove, the affected buildings, and the parking area adjacent to Rose Cottage (Building #20), north of proposed Buildings A and B. There will be twelve net new hotel/motel one-bedroom units (4 new second floor guest units per building).

Amended Relief Requested: The Applicant is seeking a Special Permit to alter and extend the existing pre-existing nonconforming hotel/motel use in addition to its previously requested Special Permit request to minimally increase the pre-existing nonconforming amenities coverage as required under Harwich Zoning By-Law sections 325-54(B) in order to complete the proposed work. The amenities coverage will increase by less than .1 % (231,194 s.f. existing (23.9%) to 232,042 s.f. proposed (net increase of 848 s.f.)).

Separately, although Town Counsel indicated that a variance would be required for the front setback from the 4 Cove Landing dwelling once the properties were merged, that determination was, in part, based on the Applicant's initial mistake of not distinguishing residential from commercial setbacks in the zoning table and narratives. After Town Counsel confirmed that two primary uses are allowed on one property, the Applicant filed an amended site plan reflecting the merger of the parcels and the applicable setbacks for each primary use. The Applicant's counsel also reached out to Building Commissioner Mee regarding the appropriate setback applicable to 4 Cove Landing dwelling (which will remain unchanged in

both use and structure as proposed). Based on those conversations, the Applicant did not amend the hearing request to include a request for a variance because the existing setback (25 feet required, 34 +/- feet existing) meets the requirements under the Harwich Zoning By-Law for the existing use, a pre-existing nonconforming two-family dwelling. Should the Applicant desire to alter the existing residential use of the dwelling at some later date, the Board would then have the opportunity to review such a request at that time. Because the 4 Cove Landing dwelling meets the residential setback requirement and is not proposed to be altered in terms of use or structure at this time, no variance is required.