***Memorandum***

**From**: Shelagh Delaney, Planning Assistant

**To**: Planning Board

**RE**: Case PB 2023-23 – Canducci Alternate Access

**Date**: July 13, 2023

**Applicant**: John W. Canducci

**Locus:** 32 Deer Run

**Land Owner:** John W. Canducci

**Land Owner’s Address:** 9R Sunrise Ave., Plymouth, MA 02360

**Applicant’s Representative**: Attorney William Crowell

**Assessor’s Map:** 35-P1-2

**Zoning Districts:** Residential Medium Density (RM) and the Commercial Highway (CH-1) Zoning Districts

**Development Type:** Alternate Access

**Lot Area:** 20,473 sf

**Project Description:** TheApplicant is requesting an Alternate Access Special Permit. The lot in question has 114.9 linear feet of frontage on Route 28, a busy state highway. The Applicant is asking for alternate access over a “Paved Common Drive Easement” on Deer Run.

**Applicable Laws & Regulations:** The application for Alternate Access is in accordance with Sections 325-18 K and 325-51 of the Harwich Zoning Bylaw and pursuant to MGL Ch 40A Section 9.

**Application Documents:** The Applicant has submitted the following documents as part of their application.

* Form A, Special Permit Application and Narrative;
* Proposed Septic System Site Plan dated 7/16/2016;
* Locus Map;
* Land Registration Map dated 4/14/1992;
* Plan of Land by William Zoino of Moran Engineering dated 10/15/1991;
* Barnstable Land Court Registry of Easement dated 05/18/2017;
* Abutter Request Form;
* Municipal Lien Certificate for
* Harwich Zoning Board of Appeals Decision Case 2022-30, stamp-dated 1/4/23;
* Filing Fee

**Project Review Process:** On 6/20/23 the Applicant’s representative submitted the application for an Alternate Access Special Permit. The public hearing notice was advertised on the Town website and in the Cape Cod Chronicle on July 6, 2023, and July 13, 2023. The application package was sent to the following Departments inviting them to comment on the project. The application was sent to the Health, Water, Fire, Conservation, Public Works, and Police Departments.

**Hearing Date**: The Public Hearing is scheduled for 7.25.23.

**Informal Staff Comments:**

The Applicant is seeking an Alternate Access Special Permit in accordance with the requirements of the Zoning Bylaw section 325-18K. This section of the Bylaw requires the Planning Board to make a series of findings listed below:

“[K.](https://ecode360.com/12263220#12263220)A lot with the required legal frontage must take access along the required legal frontage. No alternate access may be granted from other streets, roads, or ways, nor should access be taken from an easement across an adjacent property without the issuance of a Special Permit from the Planning Board. In issuing a Special Permit, the Planning Board shall make the following findings:

[(1)](https://ecode360.com/12263221#12263221)The alternate access proposed is superior to the access along the frontage;

[(2)](https://ecode360.com/12263222#12263222)The proposed alternate access is cleared to a minimum of 16 feet in width and 16 feet in height; and

[(3)](https://ecode360.com/12263223#12263223)When access is proposed from an easement across another lot, the lot providing the easement will have the required legal frontage for the zoning district.”

In addition, The Board will need to determine if the requirements of Section 325-51 are met:

**Section 325-51 Special Permits**

“[**A.**](https://ecode360.com/12263349#12263349)Conditions of approval.

[**(1)**](https://ecode360.com/12263350#12263350)The Board of Appeals or Planning Board shall not approve any application for a special permit, except a special permit for a site plan, unless it finds that in its judgment all of the following conditions are met:

[**(a)**](https://ecode360.com/12263351#12263351)The use as developed will not adversely affect the neighborhood.

[**(b)**](https://ecode360.com/12263352#12263352)The specific site is an appropriate location for such a use, structure or condition.

[**(c)**](https://ecode360.com/12263353#12263353)There will be no nuisance or serious hazard to vehicles or pedestrians.

[**(d)**](https://ecode360.com/12263354#12263354)Adequate and appropriate facilities will be provided for the proper operation of the proposed use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds or saltwater embayments.”

The Applicant is also requesting “Administrative Waivers of any and all applicable commercial or residential requirements of the By-law other than those required to construct the proposed single-family residence on the subject lot as per the site plan submitted herewith.”

I recommend the Board take all relevant testimony from interested parties and vote to close the public hearing before deliberation regarding compliance with the above noted sections of the Bylaw. If the Board finds the application is in compliance with all requirements, it may vote to grant the Alternate Access Special Permit or, if more information is needed, continue the case until the August 8, 2023 meeting.