



TOWN OF HARWICH PLANNING BOARD

Duncan Berry Chair, Craig Chadwick Vice Chair, Mary Maslowski,
Anne Clark Tucker and Emily Brutti, Harry Munns and Allan Peterson

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Certificate of Action Site Plan Special Permit Approval

August 4, 2023

John W. Canducci
c/o Attorney William Crowell
P.O. Box 185
Harwich Port, MA 02646

Please be advised that at a duly advertised, posted and noticed public hearing opened on July 25, 2023, the Harwich Planning Board (the 'Board') **voted unanimously to approve** with conditions an Alternate Access Special Permit in accordance with the Harwich Zoning Bylaw Sections 325-51 and 325-18K for the property located at 32 Deer Run.

Case No.: PB2023-23

Applicants: John W. Canducci

Agent: Attorney William Crowell

Location: 32 Deer Run; Assessor's Map 35, Parcel P1-2

Owners: John W. Canducci

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

Decision Date: July 25, 2023

SUMMARY OF PROCEEDINGS:

The public hearing in this matter was opened on Tuesday, July 25, 2023 at 6:30 PM in the Griffin Room at Town Hall as well as via remote participation using GoToMeeting. Due notice was given to all abutters within 300' of the Subject Property deemed affected as shown on the latest tax rolls of the Town, as well as the four abutting Towns and by publication in the Cape Cod Chronicle on July 6, 2023 and July 13, 2023. The plans were distributed to the Health Department, Conservation Department, Highway Department, Police, Fire and Water Departments for comments. Comments received by each were distributed back to the Applicants' agent.

Acting and voting on the matter were: Duncan Berry, Chairman, Craig Chadwick Vice Chairman, Mary Maslowski, Emily Brutti, Ann Clark Tucker and Harry Munns.

Attorney Crowell presented the case to the Planning Board noting that the Applicant has a deeded legal right to a common way easement which has been in use for 20 years. The Board reviewed the materials and agreed that 32 Deer Run already has the easement to use Deer Run as frontage and that the Alternate Access Special Permit is merely a formality. Public comments included 6 abutters in support of the project as well as concerns from one neighbor. After accepting testimony from all parties having an interest in the case, the Board voted to close the public hearing. The vote was unanimous. The members then deliberated and reviewed the criteria for granting an Alternate Access Special Permit in accordance with section 325-51 and section 325-18K of the Zoning Bylaw.

The decision in this matter is based upon the application, supporting documentation, public testimony and evidence provided at the hearing. Copies of the official records are located in the Planning Department files and are incorporated into the record by this reference.

Information Submitted

- 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
- Planning Staff Review Memo dated 7/13/23.

Findings of the Harwich Planning Board

On a motion from Ms. Maslowski with a second by Mr. Chadwick, the Planning Board voted unanimously (6-0-0) to adopt the following findings:

1. The Applicant has applied to the Planning Board for an Alternate Access Special Permit pursuant to Sections 325-51 and 325-18K of the Harwich Zoning Bylaw.
2. The subject property is located at 32 Deer Run, Harwich, located in Residential Medium Density and Commercial Highway Zoning Districts.
3. The Applicant proposes access via a legal easement on Deer Run rather than the frontage on Route 28. The Board found that the proposed access is superior to the legal frontage.
4. Abutters to the subject property were notified of the public hearing and provided with opportunity to comment on the application.
5. In view of the particular characteristics of the site and the proposal in relation to that site, the Board finds that the proposed alternate access is superior and does not present a nuisance nor serious hazard to vehicles or pedestrians.

6. Adequate and appropriate facilities will be provided for the proper use of the alternate access.
7. The Applicant has met all the requirements for an Alternate Access Special Permit pursuant to the Harwich Zoning Bylaw.

At the July 25, 2023 Planning Board meeting, Ms. Maslowski made a motion which was seconded by Mr. Chadwick that the Board grant the requested Alternate Access Special Permit for Case PB2023-23, 32 Deer Run, Harwich. The Board voted unanimously in favor. 6-0-0

IN FAVOR: Mr. Berry, Mr. Chadwick, Ms. Maslowski, Ms. Brutti, Ms. Clark Tucker and Mr. Munns.

OPPOSED: None

ABSTAINED: None

Conditions of Approval

1. The proposed construction shall be in accordance with the Site Plan referenced in the application above.
2. This decision shall run with the property.
3. This decision shall not be effective until the approved Site Plan Special Permit Certificate of Action is recorded at the Barnstable Registry of Deeds. The Applicant shall submit proof of recording to the Planning Department prior to the start of construction.
4. Changes to the site not authorized under this decision may require further Planning Board review and modification to this decision.
5. The Applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Site Plan Special Permit section of the Harwich Code.

This special permit shall lapse at the end of two (2) years from the date of filing of the Board's decision in the office of the Town Clerk if substantial use or, in the case of permit for construction, if construction has not commenced, without good cause.

J. Berry

Duncan Berry, Chairman

8 August 2023

Date

Appeal from the above decision may be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within twenty (20) days of the date of filing hereof with the Town Clerk.

This Decision has been filed with the Town Clerk on:

August 9, 2023

Emily Mitchell
Town Clerk

This is to certify that twenty days have elapsed after this decision was filed in my office and no appeal has been filed.

Date filed: _____

Twenty Days Elapsed: _____

Town Clerk

cc: Emily Mitchell, Town Clerk
Jack Mee, Building Commissioner
Carlene Jones, Assessor
Casey Furnas