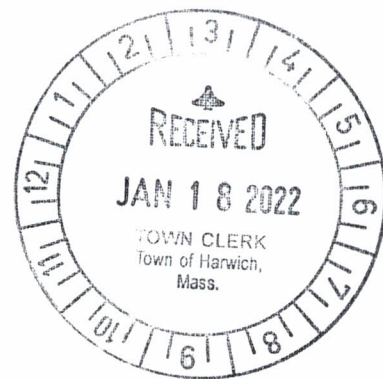


**COMMONWEALTH OF MASSACHUSETTS
TOWN OF HARWICH PLANNING BOARD
DECISION
USE SPECIAL PERMIT
WAIVER OF SITE PLAN REVIEW**



Case No.: PB2022-01

Applicant: Darrin K. Tangeman

Title: Deed Book 13549 Page 282

Owner: Lane Meehan, Trustee, CTC Realty Trust.

Property Address: 705 Main Street, Harwich Center 02645 (Map 40 Parcel Y5)

Decision Date: January 18, 2022

Findings

1. The subject property is 705 Main Street, Harwich Center (Assessors Map 40 Parcel Y5), which is located in the CV zoning district. The lot size is approximately 5,663 sq ft.
2. Applicant Darrin Tangeman is a vendee under a Purchase and Sales Agreement with the owner of the subject property, Lane Meehan, Trustee, CTC Realty Trust.
3. The subject property including two-story building thereon is currently used entirely for a retail sales use, Cape Cod Tileworks. This retail sales use is allowed ‘by right’ in the applicable CV zoning district.
4. The property and building are legally preexisting nonconforming in terms of various dimensional requirements under the Harwich Zoning Bylaw (HZB).
5. The building is one of the so-called “Three Sisters,” Greek Revival buildings adjacent to one another in the Harwich Center Historic District.
6. The applicant proposes mixed commercial/ residential use on the property: to continue a retail sales use on the first floor of the building but convert the second floor to a two-bedroom apartment. The applicant does not propose any associated site changes, or structural or exterior changes to the existing building.
7. The proposal constitutes Mixed Use Development under the HZB, which is allowed by use special permit in the applicable CV zoning district.
8. Accordingly, the applicant has applied under Section 325-51, Subsections A. & M., of the HZB for a use special permit for Mixed Use Development.
9. Because the Mixed Use Development is considered a “new use” within the meaning of Section 325-55 of the HZB, the proposal also triggers site plan review jurisdiction under said Section 325-55. The applicant has applied for a Waiver of Site Plan Review under Section 325-55F. of the HZB.
10. The proposed Mixed Use Development meets the applicable special permit criteria set out in said Subsections 325-51A. & -51M. of the HZB:
 - a. At least 33% of the floor area of the building will be dedicated to a commercial use (retail sales) and that use will be located at the front of the building, facing the street, and on the ground level.
 - b. The property has a minimum of 5,000 square feet of lot area per proposed residential unit.
 - c. There exist benches and an outdoor landscaped area on the property, offered to public invitees, as part of the current use, which will be retained as part of the proposed use.
 - d. The site parking, consisting of four (4) of five (5) undefined gravel spaces, is located behind, and screened by, the building.
 - e. The site parking is preexisting nonconforming as to the current parking standards laid out in HZB’s Off-Street Parking and Loading Regulations, HZB Chapter 325, Article IX. Under the Planning Board’s authority to vary parking and loading requirements set out in HZB Sections 325-39 *et seq* and -55, the existing number of site parking spaces and other

existing applicable parking and loading design features are sufficient for the proposed use, given the nature and scale of the proposed use; the assumed reduction in intensity of use by converting 2nd floor retail/ commercial space to residential; that there are public on-street spaces (Main Street) and other municipal lots in close proximity to the property; and that the existing parking and loading adequately served the existing retail use without issues reported.

- f. The existing septic system has more capacity than is needed for the current use, including flow designed, in part, for residential use that was never permitted or constructed. Subject to Board of Health review and approval, the system appears adequate for the proposed use.
 - g. The proposed use and development will not adversely affect the neighborhood and the property is an appropriate location for the proposed use. There are other mixed use developments on neighboring properties and there exists a mix of uses in and development types in the Harwich Center Village. No site changes or exterior building changes are proposed or required. Mixed Use Development represents 'smart growth'-type, walkable, village center development and is encouraged in Harwich Center under the Town's planning initiatives and current general planning paradigms, as well as by virtue of the existence of the village overlay zoning district in Harwich Center. The proposed retail use is conducive to supporting small, local business and the apartment will provide a housing unit in a type that is particularly needed and lacking in the housing market.
 - h. There will be no nuisance or serious hazard to vehicles or pedestrians introduced by the proposed use.
 - i. Adequate and appropriate facilities are provided for the proper operation of the proposed use.
11. The proposal meets the standard to grant a Waiver of Site Plan Review. As the applicant does not propose any changes to the building exterior or any site changes, the proposal does not substantially change the relationship of structures to the site or to abutting properties and structures.
 12. The Applicant's application is dated December 7, 2021 (received by the Town Clerk 12/8/21), includes the applicable and relevant submission materials required by the Board, and otherwise meets the applicable requirements of the Harwich Code. Among other things, the application includes:
 - Proposed floor plans basement, first floor and second floor;
 - 1989 Septic Site Plan for the property;
 - Existing site plan previously prepared for and provided by current property owner, with parking spaces overlaid/ identified to rear of site building on the plan.
 13. The Planning Board held and closed a duly-noticed public hearing on the request at its meeting on January 11, 2021.

RECORD OF VOTE/ DETERMINATION

Present, acting and voting on the matter January 11, 2022 were members Mr. D. Berry (Chair), Ms. M. Maslowski, Mr. C. Chadwick, Mr. D. Harris (participating remotely by telephone) and Mr. W. Stoltz.

Based on the aforementioned findings:

- 1) In Case Number PB2022-01, on a motion made by Ms. M. Maslowski, seconded by Mr. C. Chadwick, the Board voted unanimously (5-0-0) by roll call vote to grant a Mixed Use

Development- Use Special Permit and a Waiver of Site Plan Review for Darrin K. Tangeman, 705 Main Street, Harwich Center; and

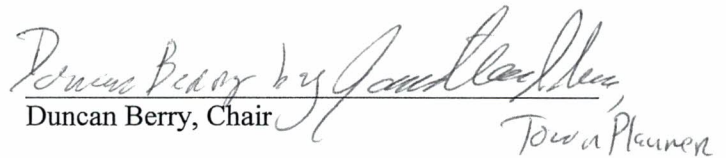
- 2) Said grant and approval is subject to the following conditions.

Conditions of Approval

1. The project shall be undertaken consistent with the plans referenced in the application material set out above.
2. This Decision shall run with the property.
3. This Decision shall not be effective until it is recorded with the Barnstable County Registry of Deeds.
4. The project shall obtain Board of Health/ Health Department approval under said Board's septic and other applicable regulations.

Copies of this Decision and all plans referred to in the Decision have been filed with the offices of the Planning Board and Town Clerk.

The Use Special Permit shall lapse at the end of two (2) years from the date of filing of this Decision in the office of the Town Clerk, which shall not include such time required to pursue or await the determination of an appeal referred to in Massachusetts General Laws Chapter 40A, Section 17 from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.


Duncan Berry, Chair
Town Planner

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Any appeal from this Use Special Permit Decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within twenty (20) days of the date of filing said Decision with the Town Clerk.

This Decision has been filed with the Town Clerk on:

JAN 18 2022

Date twenty day (20) period elapses:

FEB 08 2022


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

OR, as applicable,

_____ an appeal was filed on _____ (date).

Town Clerk
Date