

TOWN OF HARWICH PLANNING BOARD

Duncan Berry Chair, Craig Chadwick Vice Chair, David Harris, Mary Maslowski,

Anne Clark Tucker and Emily Brutti, Members; Harry Munns, Alt. Member

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Certificate of Action

Site Plan Special Permit Approval

March 15, 2023

Ripple Realty Trust

David Plunkett and Gregory Winston

P.O. Box 432

Harwich Port, MA 02646

Dear Mr. Plunkett and Mr. Winston,

Please be advised that at a duly advertised, posted and noticed public hearing opened on February 14, 2023 and continued to February 28, 2023 the Harwich Planning Board (the ‘Board’) **voted unanimously to approve** with conditions a Site Plan Special Permit in accordance with the Harwich Zoning Bylaw Section 325-55 to allow renovation of a historic barn, known as Thatcher’s Forge into a mixed-use/residential building with one second floor apartment over commercial space on the first floor.

**Case No.:** PB2023-03

**Applicant**: Ripple Realty Trust

**Location:** 338 Bank St.; Assessor’s Map 41, Parcel D1-3

**Owner:** Ripple Realty Trust

**Deed Reference:** Book 32463, Page 212

**Zoning District(s):** Commercial Village(CV)

**Hearing Date(s):** 2/14/23, 2/28/23

**Decision Date:** February 28, 2023

**SUMMARY OF PROCEEDINGS:**

The public hearing was opened on Tuesday, February 14, 2023 at 6:30 PM in the Griffin Room at Town Hall as well as via remote participation on GoToMeeting. After testimony was heard, the hearing was continued until February 28, 2023.Copies of the public hearing notice were sent via certified mail to all abutters within 300’ of the subject property. The public hearing notice was also sent to the four abutting Towns and published in the Cape Cod Chronicle on January 26, 2023 and February 2, 2023. The plans were distributed to the Health Department, Conservation Department, Highway Department, Police, Fire and Water Departments for comment. Comments received by each were provided to the Planning Board and forwarded to the applicant’s agent.

Acting and voting on the matter were members Duncan Berry, Craig Chadwick, Mary Maslowski, David Harris, Emily Brutti, Ann Clark Tucker and Alternate Member, Harry Munns. All votes were roll call votes.

At the Public Hearing, Greg Winston, David Plunkett, Dan Croteau PE., Moran Engineering and project manager Harry Ellis explained their project. The applicant proposed to renovate the circa 1853 Thatcher’s Forge, single story building, by elevating the building, pouring a new slab and constructing a second story apartment. The first floor will be used as commercial storage space.

The Board reviewed the Site Plan, proposed building renovations and architectural elevation drawings. They asked questions and requested further details on the second means of egress from the second floor apartment. Following that they voted to continuing the hearing until February 28, 2023. There were no public comments at either of the public hearings. At the 2/28/23 meeting, the Board voted to close the public hearing. The vote was unanimous. The members then deliberated and reviewed the criteria for granting a Site Plan Special Permit in accordance with section 325-55 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:**

* Completed application form and narrative;
* Filing fee;
* Site Plan by Moran Engineering Assoc., LLC dated 12/22/22;
* Building schematics, photos and elevations by George Long Design, dated 12/22/22, revised by Harry Ellis, 2/28/23;
* Review Memorandum from Paul Halkiotis, Town Planner, dated 2/3/23.

**Findings of the Harwich Planning Board**

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Planning Board voted unanimously (7-0-0) by roll call vote to adopt the following findings:

1. The subject property is located at 338 Bank Street, Harwich (Assessors Map 41, Parcel D1-3) in the Commercial Village and Harwich Center Overlay zoning districts with a total area of 3,049 sf. The subject property has one structure, an antique barn known as “Thatcher’s Forge”.
2. The proposal constitutes a Mixed Use Development in accordance with the Harwich Zoning Bylaw which is an allowed use by Special Permit in the CV Zoning District.
3. A Mixed Use development is considered a change of use within the meaning of Section 325‑51 of the Harwich Zoning Bylaws. The proposal also triggers Site Plan Approval in accordance with Section 325-55.
4. Accordingly, the applicant has applied under Section 325-51, Subsection M of the Harwich Zoning Code for a Use Special Permit for a change to Mixed Use in the Harwich Center Overlay District and for a Site Plan Special Permit under Section 325-55.
5. The building and site are pre-existing nonconforming in terms of setbacks and lot area dimensional requirements under the Harwich Zoning Code.
6. The Applicant has applied for a Waiver of strict compliance with Section 325-51 (M) (2) for the pre-existing nonconforming lot size and Section 325-51 (M)(4) and (6) for screening and landscaping as the parking will be within the garage.
7. Applicant’s Revised Floor Plan Schematic shows first floor commercial space will be over 50% for commercial use and second floor residential space as 690 SF.
8. The proposed commercial use is conducive to supporting small, local business and the residential unit will provide an additional unit of local housing. Mixed Use Development is encouraged in the villages and included in the Town’s planning initiatives.
9. The site parking includes 1 space to the south of the building, within a gravel area along Bank Street and one space inside the building dedicated to the apartment.
10. The waste water treatment system shall be subject to Board of Health review and approval.
11. The proposed use and development will not adversely affect the neighborhood and the property is an appropriate location for the proposed use.
12. There will be no nuisance or serious hazard to vehicles or pedestrians from the proposed uses.
13. The application is date stamped January 10, 2023 and includes the applicable and relevant submission materials required by the Board and otherwise meets the applicable requirements of the Harwich Code.

The decision in this matter is based upon the Petition and supporting documentation, testimony and evidence as set forth in the Hearing. All documents submitted in association with the project are in the Planning Department’s file for the project and are included in this decision by this reference.

Roll Call Vote:

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

**OPPOSED**: None

**ABSTAIN**ED: None

On a motion by Ms. Maslowski which was seconded by Mr. Chadwick, the Board voted to grant the following waivers from strict compliance with the Zoning Bylaw:

1. Lot dimensional requirements, setback requirements and residential unit square footage.
2. Landscape and screening requirements.

On a motion by Ms. Maslowski, seconded by Mr. Chadwick, the Board voted to grant the **Mixed Use Development Special Permit** for 338 Bank Street, Case # PB2023-03 subject to the following conditions:

1. The project shall obtain Board of Health approval for the on-site septic system.

2. All lighting and signage must comply with the Town Code.

3. Prior to the issuance of a building permit, the applicant shall submit a final revised Site Plan, prepared by Moran Engineering, showing the second means of egress from the second story apartment. The Planning & Community Development Director shall review and approve the final Site Plan.

 4. The applicant cannot make any changes to the approved Site Plan without further Planning Board review and approval.

5. This Decision shall run with the property.

6. This Certificate of Action shall be recorded at the Barnstable County Registry of Deeds along with the final revised Site Plan. Proof of recording shall be submitted to the Planning Department prior to the start of construction.

On a motion by Ms. Maslowski which was seconded by Ms. Clark Tucker, the Board voted to adopt the same findings and waivers as in the **Mixed Use Special Permit** for the **Site Plan Special Permit.**

Roll Call Vote:

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

**OPPOSED**: None

**ABSTAINED**: None

On a motion by Ms. Maslowski which was seconded by Ms. Clark Tucker, the Board voted to grant the **Site Plan Special Permit** for 338 Bank Street, Case PB2023-03.

**Conditions of Approval**

1. The proposed building restoration and addition shall be in accordance with the final revised Site Plan referenced above.
2. This decision shall run with the property.
3. This decision shall not be effective until it and the approved Site Plan is recorded with the Barnstable Registry of Deeds.
4. Changes to the Site Plan 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 Subdivision of Land and Site Plan Special Permit section of the Harwich Code.

All Votes by Roll Call Vote:

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

**OPPOSED**: None

**ABSTAIN**ED: None

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.

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Duncan Berry, Chairman 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date

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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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Town Clerk

cc: Emily Mitchell, Town Clerk

 Jack Mee, Building Commissioner

 Gail McAleer, Assessor

 Dan Croteau PE., Moran Engineering