

*Harwich Planning Department*



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Shelagh Delaney, Planning Assistant

*Memorandum*

**From:** Paul Halkiotis, Planning & Community Development Director

**To:** Planning Board

**RE:** Case PB 2023-04 – Oliver Homes – Second Dwelling Special Permit

**Date:** February 22, 2023

**Applicant:** Oliver Homes LLC.

**Land Owners:** George & Karen Oliver

**Applicant's Representative:** Kent Drushella

**Land Owners Address:** 25 N Prospect Ave. Unit # 2805, Milwaukee WI & 39 Old County Rd.  
Harwich Port, MA 02646

**Location:** 86 Miles St. Harwich Port 02646, Assessor's Map 14, Lot B 9

**Zoning District:** Residential Low (RL)

**Development Type:** Infill – Second dwelling unit connected to the existing principal dwelling unit

**Lot Area:** 1.18 acres

**Project Size:** 3,035 SF new single family dwelling

**Project Description:** The property owners are proposing to construct a second dwelling unit connected by a covered walkway to the existing house.

**Applicable Laws & Regulations:** The applicant has applied for a Use Special Permit pursuant to the Code of the Town of Harwich section 325-51 N Two Family home.

**Project Review Process:** On 1/17/23 the applicant's representative submitted the Special Permit application. The public hearing notice was advertised in the Cape Cod Chronicle on February 9, 2023 and February 16, 2023. On 2/7/23 copies of the application package were 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. The Planning Board received responses from the Police and Conservation Departments with no comments or concerns. On 2/9/23 the Planning Board received a memo from Carrie Schoener, Senior Health Agent. The memo is attached.

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On 2/12/23 The Planning Board received a letter from Ms. Patti Smith, 10 Grassy Pond Rd. The letter raises concerns about the property being sold to someone who may use the property for rental purposes.

**Hearing Date:** The Special Permit public hearing is scheduled for 2/28/23.

### Planning Director's Comments:

The applicant is seeking a Use Special Permit in accordance with the requirements of the Zoning Bylaw section 325-51 Special Permits and section 325-51N T. This section of the Bylaw requires the Planning Board to make a series of findings listed below:

#### "A. Conditions of approval.

- (1) 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) The use as developed will not adversely affect the neighborhood.
  - (b) The specific site is an appropriate location for such a use, structure or condition.
  - (c) There will be no nuisance or serious hazard to vehicles or pedestrians.
  - (d) 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."

#### Section 325-51N states:

"N. Two-family dwelling. Special permits for two-family dwellings may be granted upon a determination by the Planning Board that the following additional criteria have been met:

- (1) The lot area shall contain a minimum of 40,000 square feet of contiguous upland in all applicable zoning districts; however, in the Drinking Water Resource Protection District (WR) the minimum lot area shall be 60,000 square feet of contiguous upland.
- (2) The floor area for each dwelling unit shall be a minimum of 800 square feet.
- (3) A common roof or a series of roofs shall connect the dwelling units.
- (4) There shall be two off-street parking spaces per each unit."

I have reviewed the Site Plan prepared by East-South East, LLC dated 12/27/22 and the Sewage Disposal Plan dated 2/1/23. The plans demonstrates compliance with the abovementioned Special Permit requirements 325-51 N (1) – (4).

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The Zoning Bylaw defines a two family dwelling as “A building containing two dwelling units, whether side by side, over each other or in any other combination, provided that there is a common roof or a series of roofs connecting the dwelling units.”

At the time of this writing 2/23/23, the Planning Office has received a few phone calls from abutting property owners and several letters in opposition of the project. All of those people seemed opposed to the project. There have been no comment letters in support of the project.

I recommend that the Board take testimony at the public hearing and then discuss whether the application complies with the Special Permit requirements in section 325-51 listed above. Based on the comments received to date, the Board should focus on the required findings, specifically:

- (a) The use as developed will not adversely affect the neighborhood.
- (b) The specific site is an appropriate location for such a use, structure or condition.

Based on testimony at the public hearing and comment letters received, the Board will need to decide if the Special Permit can be granted based on meeting findings (a) & (b) above.

In addition the Board will need to include findings on section 51 (c) and (d) listed above and make positive findings of compliance with section **51N** (1) – (4) also listed above.

If the Board has received testimony from everyone who wants to speak on the matter, the Board should vote to close the public hearing. After the hearing is closed, the Board can deliberate or postpone deliberations to the 3/14/23 meeting.