

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

May 26, 2023

Mr. Richard J. Thompson, Tr.

100 Route 28

West Harwich, MA 02671

Dear Richard,

Please be advised that at a duly advertised, posted and noticed public hearing opened on March 28, 2023 and continued until May 23, 2023, the Harwich Planning Board (the ‘Board’) **voted unanimously to approve** with conditions a Special Permit in accordance with the Harwich Zoning Bylaw Section 325-51N to allow the owner to build a two-family residential structure.

**Case No.:** PB2023-08

**Applicant**: Richard J. Thompson, Tr.

**Location:**100 Route 28;Assessor’s Map10, ParcelL5

**Owner:** Richard J. Thompson, Tr.

**Zoning District(s):** Commercial High Density (CH-1)

**Deed Reference:** Book 34975, Page 51

**Decision Date:** May 23, 2023

**SUMMARY OF PROCEEDINGS:**

The public hearing on this matter was opened on Tuesday, March 28, 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 March 9, 2023 and March 16, 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 applicant’s agent. After testimony was taken, the hearing was continued until Tuesday, May 23, 2023 at 6:30 PM.

Acting and voting on the matter at the May 23, 2023 hearing were: Duncan Berry, Chairman, Craig Chadwick, Vice Chairman, David Harris, Mary Maslowski, Ann Clark Tucker, Emily Brutti and Harry Munns.

The applicant and his agent/builder, Robert Ward of Bayside Build & Remodel presented the case to the Planning Board who reviewed the materials and asked for clarifications on some of the proposal, specifically, the number of bedrooms per building and the Code exemption for pre-existing, non-conforming structures to the 40,000 square foot requirement under §325-54 A(1) and (2). There were no public comments. 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 a Special Permit in accordance with section 325-51 and section 325-51N 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**

* Statement from Applicant;
* Completed application Form A;
* Abutters Application;
* Municipal Lien Certificate;
* Request for waivers;
* Site Plan prepared by Paul E. Sweetser, PLS, dated 10/19/22;
* Filing fee;
* Existing Floor plans, elevations and drawings prepared by Muto Construction, dated 12/23/22;
* Garage Remodel proposed schematics and elevations by Muto Construction, dated 11/23/22, revised 12/13/22 and 12/20/22;
* Photos;
* Project review memorandum from Paul Halkiotis, Town Planner dated 5/11/23.

**Vote of the Harwich Planning Board**

On a motion from Ms. Maslowski with a second by Mr. Chadwick, the Planning Board voted (7-0) to adopt the following findings:

1. The lot is a pre-existing, non-conforming lot as to total square footage and per §325-54 A(1) and (2), does not require a waiver from the 40,000 square foot requirement.
2. The floor area for each dwelling unit is a minimum of 800 square feet.
3. A common roof or a series of roofs connects the dwelling units.
4. The plans demonstrate compliance with the above-mentioned Special Permit requirements 325-51 N.

In addition, the Board found that the application is compliant with the requirements of §325-51 for a Special Permit;

[**(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.”

On a motion by Ms. Maslowski and a second by Mr. Chadwick, the Board further approved the request for a Special Permit for a Two-Family Use pursuant to the Code of the Town of Harwich §325-51N and MGL CH 40A §9 for the property located at 100 Route 28, Assessor’s Map 10, Parcel L5 in the Commercial Highway (CH-1) Zoning District. The following conditions apply:

**Conditions of Approval**

1. The proposed building and landscaping 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 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.

IN FAVOR: Mr. Berry, Mr. Chadwick, Mr. Harris, Ms. Maslowski, Ms. Brutti, Ms. Clark Tucker and Mr. Munns. (7-0)

OPPOSED: 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Gail McAleer, Assessor