

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 17, 2023

Mr. Paul Sweetser

P.O. Box 1146

Dennis Port, MA 02639

Dear Paul,

Please be advised that at a duly advertised, posted and noticed public hearing opened on May 9, 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.:** PB2023-11

**Applicant**: Paul Sweetser, P.O. Box 1146, Dennis Port, MA 02639

**Location:** 958 Orleans Road;Assessor’s Map51, ParcelS9

**Owner:** Davenport Realty Trust, Dewitt P. Davenport, Tr.

**Zoning District(s):** Residential Rural

**Deed Reference:** Book 30893, Page 39

**Decision Date:** May 9, 2023

**SUMMARY OF PROCEEDINGS:**

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

Acting and voting on the matter at the May 9, 2023 hearing were: Duncan Berry, Chairman, Craig Chadwick, Vice Chairman, David Harris, Emily Brutti, Ann Clark Tucker, Harry Munns and Alternate Member, Allan Peterson.

The applicant was represented by Mr. Paul Sweetser and Christian Davenport. They presented the case to the Planning Board who reviewed the materials and asked for clarifications on some of the proposal, specifically, a revised screening/landscape plan. The Board then opened the hearing for public comments. An abutter who had met with the applicants on site to represent the neighbors in their desire to protect open space had additional questions about the landscaping proposal. Another abutter had sent in a letter with similar concerns. 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 AJM Site Design, LLC, dated 11/12/22, revised 5/9/23;
* Filing fee;
* Building schematics and elevations by Davenport Building Company, pages A1, A2, A3 and A4, dated 8/13/18, revised 2/27/23;
* Project review memorandum from Paul Halkiotis, Town Planner dated 4/5/23.

**Vote of the Harwich Planning Board**

On a motion from Mr. Chadwick with a second by Allan Peterson, the Planning Board voted with one abstention (6-0-1) to adopt the following findings:

[**(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.”

In Addition, the Board found that:

[**(1)**](https://ecode360.com/12263460#12263460)The lot area contains a minimum of 40,000 square feet of contiguous upland;

[**(2)**](https://ecode360.com/12263461#12263461)The floor area for each dwelling unit will be a minimum of 800 square feet;

[**(3)**](https://ecode360.com/12263462#12263462)A common roof will connect the dwelling units;

[**(4)**](https://ecode360.com/12263463#12263463)There will be two off-street parking spaces per each unit.

**(5)** The plans demonstrate compliance with the above-mentioned Special Permit requirements 325-51 N (1) – (4).

The motion further approved the request for a Special Permit for a Two-Family Use in order to construct a duplex with two 2-bedroom units, pursuant to the Code of the Town of Harwich §325-51N and MGL CH 40A §9 for the property located at 958 Orleans Rd., Assessor’s Map 51, Parcel S9 in the Residential Rural (RR) Zoning District and allow for the requested waiver of strict compliance with the requirements of Section 400-17A(1)(a) that a signed and notarized affidavit by the owner stating that he or she will live in one of the units on a year-round basis, the Board having determined that the waiver request is in the public’s interest. 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. The screening/buffer plants shall be maintained by the Applicant or the Applicant’s agent and if they die, shall be replaced with equal or better plantings.
5. 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. Brutti, Ms. Clark Tucker, Mr. Munns and Mr. Peterson.

OPPOSED: None

**ABSTAINED:** Ms. Maslowski, due to her absence at the previous hearing.

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:

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

Town Clerk

cc: Emily Mitchell, Town Clerk

 Jack Mee, Building Commissioner

 Gail McAleer, Assessor

 Paul Sweetser