



Planning & Community Development  
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### ***Staff Review***

**RE:** Case PB2024-14

**Application:** Site Plan Review Special Permit Modification

**Date:** April 30, 2024

**Hearing Date:** May 2, 2024

**Applicant Agent:** John Casale, Whitcomb Building and Remodeling

**Land Owner(s):** Jeffrey Lang, Manager, JSW LLC

**Land Owners' Address:** 53 Main Street Unit 1, Chatham, MA

**Location:** 581 and 585 Route 28, Assessor's Map 14 Parcels Y2 and Y3

**Zoning District:** Commercial Village Zoning District and Village Commercial Overlay District

**Development Type:** Addition to a pre-existing historic Mixed-Use building and pre-existing non-conforming structure (building encroaches public sidewalk on Bank Street)

**Lot Area:** 14, 558 Square Feet Combined Lots

### **Project Description:**

The Applicant seeks a Site Plan Review Special Permit Modification for an addition to a pre-existing historic mixed-use building and non-conforming structure pursuant to MGL Chapter 40A Section 9 and 11 and the Harwich Zoning Bylaw Sections 325-51 Section (L) Village Commercial Overlay District and 325-55 Site Plan Review Special Permit. The property is located at 581 and 585 Route 28, Map 14, Parcels Y2 and Y3 in the Commercial Village Zoning District and Village Commercial Overlay District.

The proposed project consists of a two-story addition to an existing mixed-use building that faces both Route 28 and Bank Street in Harwich Port Village. The addition includes a basement, front porch, first floor retail area, and second floor office space totaling approx. 2,331 Square feet (excluding porch, bulkhead, and stairs).

**Applicable Laws & Regulations for Site Plan Review Special Permit:**

MGL Chapter 40A Sections 9 and 11, and the Harwich Zoning Bylaw Sections 325-51 Section (L) Village Commercial Overlay District and 325-55 Site Plan Review Special Permit. The property is located at 581 and 585 Route 28, Map 14, Parcels Y2 and Y3 in the Commercial Village Zoning District and Village Commercial Overlay District.

**Project Review Process:**

The Application materials for a Site Plan Review Special Permit were submitted on April 9, 2024. The applicant seeks a Site Plan Review Special Permit Modification to develop a two-story addition with basement to a pre-existing historic, mixed-use building . The public hearing notice was advertised in the Cape Cod Chronicle on April 18, 2024 and April 25, 2024. A duly advertised Public Hearing will be held on Thursday May 2, 2024 at 6:30 pm.

**Comments from other Town Departments or Boards:**

Copies of the application package were sent to the following Departments inviting them to comment on the project: Health, Water, Fire, Conservation, Public Works, Building Department, and Police Departments.

The Zoning Compliance Officer noted Section 325-51 L (5) b [1] states “Front setback requirements shall be determined at the time of site plan review based on existing development patterns and the elements of the proposed project.” Therefore, the Planning Board will need to make a determination on what the front setback requirement will be for this addition. Based on that determination the project may need relief from the Zoning Board of Appeals in the form of a variance.

The Police Department did not have any traffic concerns relative to the addition.

There were no other comments.

**Project History:**

In 2011, the Planning Board approved a Site Plan Review Special Permit for additional parking from 10 to 18 parking spaces, with two additional parking spaces for a future addition, for a total of twenty parking spots. At the time, the



Planning Board approved a waiver of the 23 required parking spaces noting that the increased parking and reconfiguration of the parking lot's access: ingress and egress from Route 28 to Bank Street was an overall improvement to the Harwich Port area. The two additional spaces were reserved for a future addition to the building that did not occur.

The 2011 project also included Stormwater Management and Drainage for the reconfiguration and surfacing of parking and building areas. The previous Site Plan Review Special Permit did condition that property 581 and 585 be merged via an Approval Not Required (ANR). The current applicants have filed for an ANR to be compliant with the 2011 Planning Board's Site Plan Review Special Permit Decision.

**Application and Hearing Documents Include:**

1. Form A and Narrative (hand delivered hard copy)
2. Project Narrative: Planning Board Site Plan Review Application
3. Owner Authorization Letter from Jeffrey Lang, Manager, JSW LLC.
4. Proposed Site Plan of Land – Moran Engineering Assoc, Daniel P. Corteau Civic Engineer #46253 and Michael S. LaDue, Professional Land Surveyor #37560 dated April 9, 2024. As well as architectural renderings.
5. Stormwater Management Report: N/A
6. Abutter Application.
7. Application Fee.

**General Site Plan Review Criteria:**

1. Site Plan
2. Zoning Requirements:
  - a. Section 325 -51 (L) states "Front setback requirements shall be determined at the time of site Plan review based on existing development patterns and the elements of the proposed project"

- Commercial Village front setback is 25 feet while the proposed project has 7.5 feet front setback from Route 28 and 10 feet front setback from Bank Street
  - So long as the Planning Board determines a front setback, from Route 28 and Bank Street, of not less than 5 feet then the project may not need relief from the Zoning Board of Appeals.
- b. The ANR will merge lots 581 and 585. An ANR eliminates the property line to ensure that the project meets side setback requirements per Harwich Code.
3. Building Placement:
- a. The building addition, facing Route 28, is in keeping with the Harwich Port Streetscape as outlined in the Village Commercial Overlay District.
4. Road Access and Egress
- a. The proposed addition location faces Route 28 and Bank Street. The off street parking lot access and egress is from Bank Street only.
5. Parking Layout:
- a. Parking Spaces:
- i. Previous Site Plan approved the existing 20 parking spaces including one Handicap Parking space and loading area as shown on the Site Plan.
- b. Handicap Access: The proposed addition includes handicap access to the building
- c. Dumpster: There is an existing concrete slab area for the dumpster
6. Stormwater Management and Drainage:
- a. Does not trigger a DEP Stormwater Permit and the previous site plan addressed the drainage and stormwater management issues. The existing parking area contains catch basins and sub-surface leaching areas. The building addition roof will include gutters which will direct stormwater through downspouts to the sub-surface leaching area.
7. Traffic:
- a. A traffic study is not recommended for the proposed modification.
- b. The additional retail and office space is an appropriate use within an already heavily traffic commercial and mixed-use area of Harwich Port.
8. Septic System: BOH Compliant
9. Landscaping Plan & Screening:



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- a. The site plan includes some minor re-adjustments to the previous Landscaping Plan. The property has existing landscaping surrounding the 581 and 585 properties.

10. Signage:

- a. There is existing signage. Any change or additional signage will need to comply with Harwich Zoning Section 325 Sections 23-28

11. Lighting Plan:

- a. Any additional outdoor lighting will be fully shielded downward facing fixtures as required by Harwich Code

**Site Plan Review Special Permit:**

The applicants must meet the requirements for all Special Permits in accordance with section 325-51 Special Permits and 325-55 Site Plan Review. This section of the Bylaw requires the Planning Board to make a series of findings listed below:

Section 325-51 Special Permits:

**“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 embayment’s.”

Sections 325-55 (E) Site Plan Approval:

Recommended Findings:

1. The Applicant's Agent is John Casale, Whitcomb Building and Remodeling on behalf of Jeffrey Lang, Manager, JSW LLC 53 Main Street Unit 1, Chatham, MA
2. The subject property is 581 and 585 Route 28, Assessor's Map 14 Parcels Y2 and Y3. The property is located in the Commercial Village Zoning District and Village Commercial Overlay District
3. The project proposal consists of a two-story addition with basement to a pre-existing historic mixed-use building and pre-existing non-conforming structure (Two parts of the building encroach the public sidewalk on Bank Street).
4. The current use of the property is commercial mixed use and will not adversely effect the neighborhood.
5. The site is an appropriate location for a commercial addition to a pre-existing mixed use building in the Commercial Village and Village Commercial Overlay District. The proposed addition is in keeping with the Harwich Port Streetscape.
6. The project is in the Village Commercial Overlay District Section 325 -51 (L) State's Front setback requirements shall be determined at the time of site Plan review ..."
  - Commercial Village front setback is 25 feet while the proposed project has 7.5 feet front setback from Route 28 and 10 feet front setback from Bank Street
  - ***So long as the Planning Board determines a front setback of not less than 5 feet from Route 28 and Bank Street***
7. The property is also subject to an ANR Endorsement by the Planning Board to meet compliance with the 2011 Special Permit Site Plan Review Condition.
8. The applicant's agent has applied to the Planning Board for a Modification of a Site Plan Review Special Permit granted in 2011.
9. The application for a Site Plan Review Special Permit Modification was filed on April 9, 2024.
10. Subject to the conditions of approval stated herein, the application and site plan, as modified, conform to Sections 325-55 and 325-51 (L) of the Harwich Code.



11. The Planning Board will hold a Public Hearing on May 2, 2024.

Recommended Motions:

1. 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 and vote on the proposed matter.

**Recommended Conditions of Approval:**

1. The proposed modification shall be in accordance with the site plan referenced in the application materials listed above.
2. This decision shall run with the property, conditions of approval shall be binding on future owners.
3. **The Planning Board has determined that the front set back shall not be less than 5 feet from Route 28 and Bank Street.**
4. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address.
5. This Special Permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 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.
6. Changes to the site not authorized under this decision will require further Planning Board review and modification to this decision.
7. The Applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich.

