***Memorandum***

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

**To**: Planning Board

**RE**: Case PB 2023-11 – Sweetser, 958 Orleans Rd. – Two-Family Dwelling Special Permit

**Date**: April 5, 2023

**Applicant**: Paul Sweetser for Davenport Homes

**Land Owners**: Davenport Realty Trust, Dewitt P. Davenport, Tr.

**Applicant’s Representative**: Paul E. Sweetser, PLS

**Land Owners’ Address:** 20 North Main Street, South Yarmouth, MA 02664

**Location**: 958 Orleans Road, Harwich, MA 02645, Assessor’s Map 51, Lot S9

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

**Development Type:** Two-Family

**Lot Area:** 1.446 acres

**Project Size**: New 2-Story two-family dwelling (duplex) with a footprint of 1,605 sf.

**Project Description:** The property owners are proposing to construct a 2-story duplex dwelling units.

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

**Project Review Process:** On 2/3/23 the applicant’s representative submitted the Special Permit application. The public hearing notice was advertised in the Cape Cod Chronicle on March 23 and March 30, 2023. Copies of the application package were sent to the following Departments inviting them to comment on the project: Health, Water, Fire, Conservation, Public Works, and Police Departments.

**Application Documents Include:**

1. Form A and Narrative;
2. Municipal Lien Certificate;
3. Site Plan by AJM Site Design, LLC, dated 11/12/22;
4. Building and Elevation Plans by Davenport Building Company dated 8/13/18, revised 2/27/23, pages A1, A2, A3 and A4;
5. Abutters Application;
6. Fee

**Waiver Requested:** Waiver of strict compliance with the requirements of Section 400-17A(1)(a) 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.

**Hearing Date**: The Special Permit public hearing is scheduled for 4/11/23.

**Planning Director’s Comments:**

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

**Section 325-51 Special Permits**

“[**A.**](https://ecode360.com/12263349#12263349)Conditions of approval.

[**(1)**](https://ecode360.com/12263350#12263350)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)**](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.”

**Section 325-51N states:**

“[**N.**](https://ecode360.com/12263459#12263459)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)**](https://ecode360.com/12263460#12263460)The lot area shall contain a minimum of 40,000 square feet of contiguous upland in all applicable zoning districts;

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

[**(3)**](https://ecode360.com/12263462#12263462)A common roof or a series of roofs shall connect the dwelling units.

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

I have reviewed the Site Plan prepared by AJM Site Design, LLC dated 11/12/22 and the Building and Elevation Plans by Davenport Building Co. dated 8/13/18, revised 2/27/23, pages A1, A2, A3 and A4;

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

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.”

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, specifically:

[**(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.

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 (a) - (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 and vote or postpone deliberations until the 4/25/23 meeting.