

**MINUTES
ZONING BOARD of APPEALS
6:30PM MONDAY, NOVEMBER 17, 2025
263 South Street, Harwich, MA
204 Cultural Arts Municipal Building, Auditorium**

RECEIVED
TOWN CLERK
HARWICH, MA

2025 MAR 10 A 9:51

MEMBERS PARTICIPATING: Brian Sullivan, Chair, Kenneth Dickson, Vice Chair, Alexander Donoghue, Clerk, Christopher Murphy, David Nunnally, John August and Marilyn Raatz

ALSO PARTICIPATING: Christine Flynn, Town Planner, Judy Barrette, Chapter 40 Consultant to the Board and Amy Kwesell, Town Counsel

I. CALL TO ORDER; RECORDING NOTICE

Mr. Sullivan called the meeting of the Harwich Zoning Board of Appeals to order on Monday, November 17, 2025 at 6:32PM.

II. PUBLIC HEARINGS

Case No. 2025-21, Queen Anne Acres LLC, and Mid Cape Church Homes, Inc.. d/b/a Pine Oaks Village Homes. P.O Box 1305, Harwich, MA 02645, has made an application for Comprehensive Permit pursuant to MGL Chapter 40B Sections 20-23 and 760CMR 56.00, to construct 5 corridor buildings and five townhouse buildings consisting of 242 rental units. The property is located at 0 Queen Anne Rd Map: 57 Parcel: C5. 55 Queen Anne Rd Map: 57 Parcel: C2, 57 Queen Anne Rd Map: 57 Parcel: C3. 0 Queen Anne Rd Map: 57 Parcel: C6, 99 Queen Anne Rd Map: 5 Parcel: H1, 0 Queen Anne Rd Map 57 Parcel: H3, 0 Annasis Rd Map 57 Parcel: H2, 0 Main St Map: 46 Parcel: M-10. 0 Main St Map 47 Parcel: C1-4, 324 Main St Map: 47 Parcel: B1 and B1-0 and a Parcel that Fronts Queen Anne Road. according to the Town's GIS. the parcel is surrounded by the following: - Easterly direction abuts parcels 57C2, 57C3. and 57 C5 -Westerly direction abuts parcel 53 X3, 53 X3-A, 56 X2-3, and 56 X2-4, - Southerly direction abuts 56-W6. Located in the RL Zoning District. (Continued form 10.15.2025)

A. Opening remarks by the Chair

Mr. Sullivan noted that the applicant had provided copies of tonight's presentation for the public. He invited everyone to sit closer to the front. He noted the purpose of this meeting and read the Recording Notice. Mr. Sullivan noted that he expects this to conclude the Public Hearings on this matter and thanked the public for their participation. He gave an overview of Chapter 40B, the Board's responsibilities and the importance of public input.

B. Introduction of Board Members

Mr. Sullivan invited all members of the Board and others at the table to introduce themselves.

Mr. Donoghue read Case No. 2025-21 as presented.

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C. Summary by Applicant of the key impact areas

Peter Freeman, representing the applicant was present and introduced Bob Doane from the applicant, Jim Green, Housing Consultant, Rich Claytor and Joe Henderson of Horsley Witten Group. Atty. Freeman noted that they had received a letter from the Cape Cod Regional Transit Authority (CCRTA) noting that they would work with the applicant to provide transportation to residents. He reviewed the table that was submitted initially with the application and noted updated charts and information that he had recently submitted.

1. Stormwater Management
2. Site Design
3. Waste water management and treatment facilities timetable
4. Environmental considerations
5. Traffic impact
6. Review Local preference guidelines and affordability terms
7. Emergency Access Road and Second Connector Road considerations

Mr. Claytor began the presentation which he noted is a summary of what they have reviewed during the last seven hearings. He began with an overview of the five phase Pine Oaks Village IV Project Program. He described the architecture, the Resident Child Care Facility, the Site Plan Infrastructure, the On-Site Roadway Network, Parking and Sidewalks, the Geometry of the Site, Open Space and Recreation, Environmental Mitigation - Nitrogen Load, Wastewater Management, Stormwater, Construction Erosion/Sediment Control, Wetland Jurisdiction and Mitigation, Environmental Resource Areas and Rare Species identification and Mitigation. Mr. Claytor continued with a Summary of the Site Plan Changes/additions over the Hearing Process which he described in detail. He noted that the applicant had a peer review by six different topics through two different consultants. Mr. Claytor noted the Consultants, which peer review they performed and the results of those reviews. He concluded the applicant's vision for Pine Oaks Village IV.

Atty. Freeman noted that the applicant had also submitted a one page summary of their justification for perpetuity of 50 years.

Jim Green, Financial Expert spoke about affordability noting numbers of units, the percentages of Area Median Income (AMI) and moderate to equal income. He noted data regarding local preference. He also noted the process of the applicant and state renegotiating the loan and the importance of the 50 year affordability coming off.

D. Discussion by Board with Applicant

Mr. Sullivan responded to the applicant's reference to what conditions might be included in the Pennrose Proposal stating that the ZBA has not seen that case or been given any information about it. He emphasized that every case that comes before the ZBA stands in its own merits. He referred to affordable housing and it not being a temporary problem and that he is in favor of perpetuity and not a 50 year limit. He referred to the amortization period being

the length of the loan and unknown future changes in the rates. He explained the future options for the applicant if refinancing doesn't work, to allow them to be financially stable.

Mr. Green replied that the applicant has to show a projection now that the loan can be paid off. He noted that Mid-Cape Church Homes will not turn POV IV into a market rate unit.

Mr. Sullivan noted that under 40B, all the applicant was required to do was 20-25% of the units to be affordable. This project has over 70%. Mr. Sullivan commented that he would hate to see any units come off the Subsidized Housing Inventory (SHI) List 30 to 50 years from now.

In response to Mr. Green's queries, Ms. Barrette replied that she has not seen a contract that comes off in a certain amount of time for at least 20 years.

Atty. Kwesell questioned the applicant's comment that they could not restrict any units to local preference that have federal funding and asked what that percentage of units that will be.

Mr. Green responded that it is most of the 30% units.

Atty. Kwesell noted that none of her 40B decisions have a 30 year, they are all perpetual. She explained what has been done to keep it affordable in perpetuity.

Mr. Sullivan noted that he had provided a set of the current site plans to the Police and Fire Chiefs. Both reviewed that plans again and had no issues or problems regarding safety vehicles etc. He also noted that he spoke with the Police and Fire Chief and other safety officials regarding creating a second egress. He explained their responses and suggestions and read a portion of Zoning Code 325-17. Mr. Sullivan noted that at some point that POV IV or this Board may be looking at conditioning a second road.

Atty. Freeman read the condition offered by the applicant.

Mr. Sullivan noted that when the Board goes into deliberations, they will be considering conditioning that road. He also noted that over the months, they have covered every aspect of this proposal.

Mr. August asked for clarification and an explanation of the wastewater treatment plant and management thereof and how it is different from the title 5 people have at their homes.

Mr. Claytor gave an explanation and description of their plan and how it differs from the title 5 at homes. He also described the operations and maintenance of the septic systems.

Mr. August asked, related to the erosion and sediment control process, if the applicant intends to hire a third party monitoring quality insurance company and also to have those reports sent to the town as well as the client.

Mr. Claytor responded that the Horsely Whitten Group provides that service and he explained the process.

Mr. Sullivan asked, if it is approved, what the projected time frame is when they will start seeing action on the property.

The applicant's response was it would depend on the financing and if things go well, they would start construction in early 2027.

Mr. Sullivan moved to do item H. prior to Public Comment. Seconded by Mr. Donoghue.

Vote: 7:0 in favor. Motion carried.

E. Public Comments

Mr. Sullivan noted that the Public Comment section would be for 45 minutes initially and extended if necessary.

Lou Urbano of West Harwich asked for clarification of the cost of the wastewater system.

Mr. Claytor replied that he had estimated several million dollars for the buildout wastewater plant.

Sally Urbano from West Harwich asked that the ZBA refer the project to the Cape Cod Commission for discretionary review. She gave an overview of the Cape Cod Commissions review process and read their vision statement for natural areas. She also spoke of the vision for Harwich and explained her opposition to the project in detail.

Atty. Freeman responded that what was requested is not legally possible for this project and he explained why.

Mr. Sullivan noted that the Cape Cod Commission (CCC) had sent in an opinion on the project, and he had personally reached out to the CCC and invited them to a meeting. He did not receive a response to his invitation.

Sherry Stockdale of North Harwich spoke to the issue of nitrogen and the effects on the Herring River. She expressed her opposition to the project and explained her reasons in detail.

Tom Burch of North Harwich had specific questions regarding offset nitrogen discharge, virtually zero discharge to groundwater and fair share regarding traffic.

Mr. Claytor gave definitions and a detailed explanation of offset, virtually and fair share as requested.

Mr. Sullivan noted that the ZBA does not dictate how the town will handle the issues of traffic in the area or sidewalks. He noted that their decision will not be based on whether there are sidewalks. Mr. Sullivan noted the eventual need for the town to apply for a grant for

infrastructure changes. He asked what the applicant considers their fair share of infrastructure changes.

Mr. Claytor explained their offer to help with traffic mitigation by helping to apply for grants. He described the process and gave a detailed definition of what a fair share would be.

Atty. Kwesell noted that it can be conditioned that the applicant helps with grants.

Jim Pena of North Harwich referred to information in the packet which he had not previously seen. He noted specific comments from the applicant's presentation in the packet regarding wastewater facilities and asked if there is a guardian in the analysis referring to the slim margin for error. He referred to the traffic study and his opinion that it should have been done by the town, not the applicant and he explained his reasons in detail. He asked that the Board look into a corridor related analysis.

Mr. Sullivan responded that per 40B, the applicant is not responsible for infrastructure issues unless they are causing extreme changes. He noted that the ZBA cannot base an approval or denial on traffic issues.

Mr. August noted that the site survey has been done but the report had not been submitted.

Mr. Claytor responded that the road safety assessment has been submitted to the town. He noted what organizations were involved in the assessment, that it is not biased and has been submitted to the town.

Atty. Freeman noted the intention of the Roads Safety Assessment (RSA) that was done at the Pleasant Lake Avenue and Queen Anne intersection.

Mr. Sullivan noted that VHB is designated as the town's engineer.

Ed Trevik of 448 Main Street spoke in opposition to POV IV noting that it should not qualify for waivers and explained his reasons in detail.

Theresa Johnson of West Harwich read a letter she had written, in opposition to POV IV. She asked questions regarding Annasis Road and who is paying for it and the chart regarding rent provided by the applicant.

Mr. Sullivan responded that a private road is the sole cost of the developer. He noted that by the chart, approximately 25% of the units are at market rate and potentially above.

Sherry Stockdale noted reasons that a project can be denied and spoke in opposition to the POV IV project, stating her reasons in detail.

Tom Burch referred to the term offset and asked for clarification. He also referenced the line, can be designed with nitrogen reducing, organic, suggesting that it should read, will be.

Mr. Sullivan explained nitrogen credits and how they work.

Mr. Claytor spoke about stormwater and explained the nitrogen removing layer and what it accomplishes.

Steve Ferrell of North Harwich noted the possible 242 children who would be going to school. He asked when the designation of whether they are a Harwich resident comes in.

The applicant responded that the determination would be made when they apply. He also noted that the local preference only applies to the initial lottery.

Theresa Johnson asked about the safe harbor number. She noted that the Police Chief spoke against the POV IV. She asked what amount POV IV would pay as their fair share, noted that the nitrogen processing was in the research stage and asked the last date to submit online information to the board.

Mr. Sullivan replied that he must gather information this evening from everyone including the applicant.

Mr. Green addressed the issue of nitrogen noting that they would be producing less than houses in the neighborhood.

Atty. Freeman noted that the applicant had submitted their proposed traffic conditions which included the specific dollars, for what purpose and at what time.

Ms. Stockdale noted that a 40B does not trigger a DRI and clarified her comment about the CCC and their review.

Mr. Pena clarified a previous statement and asked what the margins are of error that was in the calculation. He noted that a margin of error of 1% is not acceptable. He commented that the Board's ability to look at a 40B proposal is to weigh in local concerns against housing issues. He commented that no information was given to the Board to make a true assessment of the corridor. He asked that the ZBA weigh the local concerns and asked that the ZBA ask for more information around what the applicant said.

Atty. Freeman responded to the comment regarding a corridor noting that their experts used the appropriate standard criteria which would include if it is a corridor.

Mr. Claytor addressed Mr. Pena's comment and questions regarding calculations for wastewater noting the applicant's plans and what amounts they are permitted for.

Atty. Freeman thanked the Board and the Chair for the months of creating thoughtful agendas, anticipating what they would discuss and the thoughtful process. He noted that the applicant has responded to the Board's suggestions, peer reviews and local people. Atty. Freeman noted that at the conclusion, there are conditions that will protect the interest that the ZBA is trying to protect. He commented that they have addressed the local concerns and will protect the local interests.

He summarized that there is a housing need and by allowing this project it will make a difference in the Town of Harwich and the Cape.

F. Board Comments and Discussion

Mr. Dickson asked for the total number of estimated occupants for clarification.

Mr. Green replied that the total is 518 persons.

Mr. Sullivan noted that regarding phase 1 of the sewage treatment center, they are looking at well under 10,000 gallons per day. He asked the applicant, if in Phase 1 they exceed the 10,000 and Phase 2 has not been started, what happens?

Mr. Claytor responded with an explanation including the DEP signing off on Phase 1 and the monitoring. If they exceed flow estimates, the DEP issues a violation, and it has to be corrected.

G. Board Discussion and Vote to Close the Public Hearing and begin deliberations

Mr. Sullivan moved to close the Public Hearing for Case No. ZB2025-21Queen One Acres, LLC and Mid Cape Church Homes, Inc. Seconded.

Vote: 7:0 in favor. Motion carried.

H. New /Other Business

I. Review Revised Scope of work by VBH and Vote to approve

Mr. Sullivan noted that there was an initial authorization approved by the applicant for the amount of expenses for the peer review by VHB which has been exceed by \$10,440 to date with potentially another \$5,600 to complete the scope of work

Mr. Sullivan moved, regarding the client authorization, to authorize the additional bill. Seconded by David Nunnally.

Mr. Dickson asked who would be paying the bill.

Mr. Sullivan replied that the applicant pays the town, and the town pays VHB.

Vote: 7:0 in favor. Motion carried.

I. Board Discussion and Vote to Continue Deliberations on Case# 2025-21 to Monday, December 1, 2025, at 9am at the Harwich Town Hall, Griffin Room. 732 Main Street, Harwich, MA 02645.

Mr. Sullivan noted that on December 1st, the ZBA's deliberation meeting will be held in the Griffin Room at Town Hall and 9:00AM. It will be open to the public but there will be no public comment. He expects the meeting to be televised as well.

III. ADJOURN

Meeting adjourned at 9:09PM.

Respectfully submitted,

Judi Moldstad
Board Secretary

November 17, 2025