

**MEETING MINUTES
HARWICH PLANNING BOARD
GRIFFIN ROOM, TOWN HALL
732 MAIN STREET, HARWICH, MA
TUESDAY, AUGUST 26, 2025 - 6:30PM**

RECEIVED
TOWN CLERK
HARWICH, MA

2025 AUG 27 P 3:09

MEMBERS PARTICIPATING: Duncan Berry, Chair, Harry Munns, Allan Peterson, Ann Clark Tucker, Emily Brutti, Mary Maslowski and Ann Newman

ALSO PARTICIPATING: Christine Flynn, Planner and Director of Community Development

I. OPEN MEETING:

Mr. Berry called the meeting of the Harwich Planning Board to order on Tuesday, August 26, 2025, at 6:30PM and read the Recording Notice.

II. PLEDGE OF ALLEGIANCE:

Mr. Berry invited all attendees to join in the Pledge of Allegiance.

III. PUBLIC HEARING:

a. Applicant has requested a continuance to September 23, 2025 -Continued Public Hearing from May 13, 2025, June 10, 2025, and July 8, 2025, for Case # PB2025-11 S HPORT LC, Robert C. Demarco, Manager, 1 Campanelli Drive Braintree, MA 02184 through their agent, Marian Rose, Esq., Singer & Singer Law Office 26 Upper County Road, Dennis, MA 02639 seeks approval for a Multifamily Special Permit and Site Plan Review Special Permit with request for waivers. The proposed project is to construct a 28-unit multifamily structure and reconfigured parking. The application is pursuant to the Code of Harwich Sections §325-51, §325-55 and MGL Chapter 40A sections 9 and 11. The property is located at 606 Route 28, Assessor's Map 14 Parcel Z18-2 and the parcel is approximately 76,226 square feet. The parcel is in the Commercial Village (CV) and Residential Low Density (RL) Zoning Districts and within the Village Commercial Overlay District (VCOD)

Mr. Berry read Case #PB2025-11 as presented noting that there has been a request for continuance. This case will be continued to September 23, 2025, no earlier than 6:30PM at the 204 Cultural Arts Municipal Building Auditorium at 263 South Street.

Ms. Brutti moved to continue Case #2025-11 to September 23, 2025, no earlier than 6:30PM at the 204 Cultural Arts Municipal Building Auditorium at 263 South Street. Seconded by Mr. Peterson.

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Vote: 7:0 in favor. Motion carried.

b. Continued Public Hearing from August 12, 2025, for Case # PB2025-17 Eliza Kendall, through their agent, Mark Dibb, P.E., Cape and Islands Engineering seeks approval for a Site Plan Review Special Permit with request for waivers. The proposed project is to construct a 4,800 square foot prefabricated metal building for contractor bays with access, parking, and utilities. The application is pursuant to the Code of Harwich Sections §325-51, §325-55 and MGL Chapter 40A sections 9 and 11. The property is located at 103 Main St Ext, Assessor's Map 5 Parcel N1-2 and the parcel is approximately 20,201 square feet. The parcel is in the Industrial Limited (IL) Zoning District.

Mr. Berry read Case #PB2025-17 as presented.

Mark Dibb of Cape & Islands Engineering was present. He gave an update on the Peer Review from VHB noting that he has received a second review from VHB. He gave an overview of what had been done to address VHB concerns, specifically noting drainage.

Ms. Flynn gave an update relative to VHB's Storm Water Management Report noting that Mr. Dibb's response to VHB's recommendation is included in the packet. She noted that the Town's Consulting Engineer from VHB did not have any additional comments.

Mr. Berry referred to a specific recommendation from VHB requesting a revised plan regarding storm water management.

Mr. Dibb described what had been done in response to VHB's recommendations.

Ms. Flynn noted that there were four comment areas from VHB that had been identified as a condition of approval for the project.

Ms. Flynn noted that Ms. Maslowski and Mr. Munns will not be voting on this project.

Mr. Peterson moved to close the Public Hearing. Seconded by Ms. Brutti.

Vote: 5:0:2 in favor. Ms. Maslowski and Mr. Munns abstained. Motion carried.

Mr. Peterson moved to adopt the proposed Findings of Facts:

1. The applicant is Scott's Landscaping
2. The property owner is Ronald J. Kendall, Jr. and Eliza J. Kendall
3. The subject property is 103 Main Street Ext. Map 55 Parcel N1-2
4. The property is in the Industrial Limited (IL) Zoning District
5. The application for a Site Plan Review Special permit was filed with the Town Clerk on June 23, 2025 and August 11, 2025
6. Proposed Site Development Plans by Mark Dibb, P.E. civil number 45937 dated 06/05/25 stamped in with the Town Clerk on 07/08/25 and revised plans August 11, 2025

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7. Revised Storm Water Plans dated August 11, 2025

8. In addition, the Board finds that the Site Plan Review

- 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 hazard to vehicles or pedestrians
- D. Adequate and appropriate facilities will be provided for the property appropriate of the proposed use. This includes the provision of the appropriate sewage treatment facilities which provide for a deed nitrification when the permit granting authority deems such facilities necessary for protection of drinking water supply walls, ponds or saltwater embayments.

Seconded by Ms. Newman

Vote: 5:0:2 in favor. Ms. Maslowski and Mr. Munns abstained. Motion carried.

Mr. Peterson moved to grant waiver requests relative to the planting of a tree for every five parking spaces. The applicant has tried to preserve several existing trees towards the front and rear of the property. Seconded by Ms. Tucker.

Vote: 5:0:2 in favor. Ms. Maslowski and Mr. Munns abstained.

Mr. Peterson moved to approve with conditions Case #PB2025-17 Scott's Landscaping 103 Main Street Ext for approval of a Site Plan Review Special Permit pursuant to s325-51 and s325-55 of the Codes of the Town of Harwich for property located at 103 Main Street Ext Map 55 Parcel N1-2 in the Commercial Highway (CH1) Residential Rural (RR) Zoning Districts in DEP Zone 2.

The decision is based on the Findings of Fact with the conditions of approval:

- 1. The applicant is Scott's Landscaping
- 2. The property owner is Ronald J. Kendall, Jr. and Eliza J. Kendall
- 3. The subject property is 103 Main Street Ext. Map 55 Parcel N1-2
- 4. The property is in the Industrial Limited (IL) Zoning District
- 5. The application for a Site Plan Review Special Permit was filed with the Town Clerk on June 23, 2025
- 6. Site Plan Proposed Site Development Plans by Mark Dibb P.E. civil number 45937 dated 06/05/25 stamped in with the Town Clerk on 07/08/2025 and a revised set of plans dated August 11, 2025
- 7. The applicant shall need an approved septic system by the Board of Health
- 8. Building floor plans shall be submitted prior to the issuance of a building permit
- 9. There shall be no storage of hazardous materials on site
- 10. The decision shall run with the property. Conditions of approval shall be binding on future owners
- 11. The Special Permit shall not take effect until a copy of the decision bearing the certificate of the Town Clerk that 20 days have elapsed after the filing of the decision either that no appeal had been filed or that an appeal had been filed within such time period is recorded in the

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Registry of Deeds and indexed under the name of the property owner of record and the parcel address.

12. The Special permit shall lapse within two years which shall not include such time required to pursue or await determination of appeal referred to in MGL c40A s17 from the grant thereof if a substantial use thereof is not sooner commenced except for good cause or in the case of a permit construction, if construction is not begun by such date except for good cause.

13. Changes to the site not authorized under this decision will require further Planning Board review and modification to this decision.

14. The applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to the Code of the Town of Harwich

Ms. Flynn offered a correction that the Revised Site Plans were submitted on August 26th and added that the applicant offers to provide further information as outlined in the document entitled Cape & Islands Engineering, the applicant's response dated August 26., 2025. The applicant agreed to provide full building plans that will be submitted prior to the issuance of the building permit. One additional condition is that the applicant understands the risks regarding to the number of test pits performed to the date of the project and that the applicant has acknowledged that there's been a redesign to include the additional row of galleys and the system will be able to handle a fifty-year storm and will not surcharge the rim height while doing so. Also, that system #2 has been revised for emergency overflow.

Mr. Peterson made the following amendments to his motion:

For item #6- Strike August 11, 2025, and change to August 26, 2025

For item #15- Condition of approval be included requiring that full building designs plans including scaled floor plans, elevations, doors, window locations be submitted for review and approval prior to issuance of a building permit. This recommendation is made with the understanding that the applicant knows the potential risk of encountering unfavorable subsurface conditions.

For item #16 - That system one has been redesigned and now includes an additional row of galleys. The system will now handle the fifty-year storm and will not surcharge the rim height while doing so.

For item #17 - System number two has been revised. Two additional rows of galleys have been added to provide storage for the 100-year storm event.

Seconded as moved and amended by Ms. Newman.

Vote: 5:0:2 in favor with Ms. Maslowski and Mr. Munns abstained. Motion carried.

IV. PUBLIC MEETING:

a. Case #PB2025-22 John McElwee, P.L.S., Cape & Islands Engineering, Inc., agent for Mid Cape Church Homes, Inc., seeks an Endorsement of an ANR (Approval Not Required) Plan entitled "Land Division Plan" by Cape & Islands Engineering - John McElwee, PLS No. 33602 dated 07/22/2025 for the property at 99 Queen Anne Road, Assessor's Map 57, Parcel H1 in the Residential Low-Density (RL) and Industrial Limited Zoning Districts. The applicant requested an extension to August 26, 2025.

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Mr. Berry took Case #PB2025-22 out of order and read the case as presented.

Attorney Peter Freeman was present representing the applicant. John McElwee of Cape & Islands Engineering also present. Atty. Freeman gave an overview of the proposed project.

Mr. McElwee gave a detailed description of the proposed project.

Christine Flynn noted that this is an Approval Not Required (ANR) for endorsement by the Board. She gave a brief history of Annasis Road noting that the road did exist prior to the Subdivision Control Law. She noted the appropriate frontage. She stated that VHB had done an evaluation and she related their findings. VHB had concerns regarding the construction of the road however Town Counsel has opined that it was adequate and up to the Planning Board to determine if the access meets the grading construction and width. She stated that staff recommends that the applicant has met the criteria to endorse an ANR. Ms. Flynn also noted that there were no deeded easements for the road and Town Counsel did opine that because it is an existing road, deeded access was not required.

Mr. Berry asked for questions and comments from Board members and the public.

Ms. Maslowski moved that the Planning Board endorse the ANR Plan based on the following findings:

1. Evidence has shown that the existing private way predates the Subdivision Control Law dated March 25, 1949.
 2. There is sufficient frontage for the ANR Plan and based on the findings of the Town's Consulting Engineer that the width and gradient of the unpaved road is sufficient.
- Seconded by Mr. Peterson.

Vote: 7:0 in favor. Motion carried unanimously.

b. Case #PB2025-23 Eastward MBT, LLC Trustee of the Eastward Homes Business Trust, Agent, Susan Ladue have requested a release of Covenant for #1594-1598 Orleans Road, Lots 1, 3, 4, 5, 6, and 7, Assessor's map 107, Parcel S2-1 & S2-2 in the Residential Rural (RR) and DEP Zone II Water Resource Protection District. The definitive subdivision Case was #PB2024-21 and Lot 8 was released in Case #PB2025-02 and Lot 2 was released in Case #PB2025-18.

Mr. Berry took Case #PB2025-23 out of order and read the Case as presented.

Susan Ladue participated remotely and requested the release of the remaining lots for a full release of the Covenant.

Ms. Flynn noted that if the Board could vote on the full release of the Covenant as well as a Performance Security Agreement, those are the only two documents for the purposes of this

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evening. The applicant provided a financial security. She recommended moving forward with the full release of the Covenant and to adopt the Financial Security Agreement.

Ms. Maslowski moved to accept and approve the security in the amount of \$256,000 to cover the remaining road work required by Case #PB2025-23. Ms. Maslowski further moved to release the remaining lots in the Covenant for land. Seconded by Mr. Peterson.

Vote: 7:0 in favor. Motion carried unanimously.

Ms. Maslowski moved to confirm that the Planning Board accepts the Financial Security of \$256,000 to cover the remaining road work. Seconded by Mr. Peterson.

Vote: 7:0 in favor. Motion carried unanimously.

V. TOWN PLANNER UPDATE:

a. Local Comprehensive Plan Update

Ms. Flynn noted that the LPC rolled out the final draft of the LCP. She gave a brief overview of next steps and noted that the document will be ready for the Annual Town meeting next May. Ms. Flynn encouraged Board members to read the document. Ms. Flynn noted that the Planning Board will need to hold a formal Public Hearing to adopt the LCP prior to Town Meeting. The comment period ends September 30th however feedback would be appreciated as soon as possible.

Ms. Maslowski suggested that the LCP discussion be on the Agenda for the September 9th meeting.

b. Discussion Pine Oaks Village VI and ZBAs' Request for Planning Board Input

Ms. Flynn noted that the Zoning Board of Appeal's (ZBA) Chair did request that the Planning Board provide some comments relative to the project she is working on an outline to provide a brief overview of some of the items that fall within the purview of the Planning Board. She will provide a brief outline prior to the September 9th meeting. She noted that all materials are on the ZBA website. Ms. Flynn noted what will be discussed at the ZBA's next meeting on September 17th.

c. Other planning business

Ms. Flynn noted that the Barnstable Registry of Deeds has asked the Planning Board to sign off to provide signatures. She provided the document for Board members to sign.

VI. ADJOURN

Mr. Peterson moved to adjourn. Seconded by Ms. Maslowski.

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Vote: 7:0 in favor, Motion carried. Meeting adjourned.

Respectfully submitted,

Judi Moldstad
Board Secretary,

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