

**MINUTES
TOWN OF HARWICH
ZONING BOARD OF APPEALS
6:30PM WEDNESDAY, APRIL 30, 2025
TOWN HALL – GRIFFIN HEARING ROOM**

MEMBERS PARTICIPATING: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

ALSO PARTICIPATING: Rachel Lohr Zoning Compliance Officer

MEMBERS ABSENT: Chris Murphy, David Nunnally

I. CALL TO ORDER; RECORDING NOTICE

Mr. Sullivan opened the meeting of the Town of Harwich Zoning Board of Appeals on Wednesday, April 30, 2025, at 6:30PM. Members of the Board introduced themselves for the record.

II. PUBLIC HEARINGS

Case No. 2025-14, Elizabeth Mobassaleh, c/o Gus De Alcantara, 11 Lake St, Hudson, MA 01749, owner of the property located at 19 Shannon Rd, Assessors' Map 41, Parcel T29, in the RR Zoning District. The Applicant seeks a Special Permit from §325-54 A (2) "Nonconforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations, to enclose a breezeway, and raze and replace an attached garage on their pre-existing nonconforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 6. (Continued from 03.26.2025)

Mr. Donoghue read the case into the record.

Mr. Sullivan stated this case was before the Board last month and was continued to this hearing so that the applicant could revised the building plans and site plan.

Mr. Sullivan read the recommended findings of fact and conditions into the record.

The Board discussed possible conditions.

Information Submitted as part of this application which will be incorporated in this decision include:

1. The Petitioner's Zoning Board of Appeals application and narration.
2. Certified Site Plan by Outermost Land Survey, Inc., dated 02/12/2025.
3. Certified Site Plan by Outermost Land Survey, Inc., dated 03/26/2025.

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4. Design drawings by Soulvplus., dated 01/27/2025, sheets 1.0, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14.
5. A letter dated 02/24/2025 by the Harwich Building Official denying the Building Application.
6. Interdepartmental Comments.
7. Site Summary Dated 03/14/2025
8. A duly advertised hearing on 03/26/2025 and 04/30/2025.

Mr. Sullivan moved and Mr. Donoghue Seconded that the Board, after viewing the Property in question and after review of the facts, plans, application, and evidence presented at this hearing and after deliberations on the same made the following findings:

1. The lot is in the RR Zoning District.
2. The Property is located at 14 Pasture Lane.
3. The lot is pre-existing non-conforming regarding area requirements with 10,104sq ft and frontage requirements with 92', both will remain unchanged.
4. The existing dwelling and attached garage are pre-existing non-conforming regarding the east side setback at 19.3' and the west side setback at 14.4, both which will remain unchanged.
5. The existing dwelling is conforming regarding the north front setback, the rear setback and building height.
6. The site coverage will increase but remain conforming at 18.7% where 25% is the maximum allowed.
7. The building coverage is currently conforming at 12.6% but will be increased to a conforming 15% where 15% is the maximum.
8. The project proposes to raze and replace an existing attached garage and breezeway within the required setback, requiring a Special Permit.
9. The structure will remain a single-family dwelling.
10. The addition and renovations will not create any additional negative impacts with respect to traffic, noise, odor, and congestion.
11. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
12. That for the life of the approved project, all construction vehicles will be parked on the Applicant's property and not on any public street or road.
13. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Members of the Board voting: Timothy Bailey, Brian Sullivan, John August, Kenneth Dickson, and Al Donoghue.

The Board Voted 5-0-1 in Favor with Kenneth Dickson abstaining, accepting the findings and conditions.

Mr. Dickson moved to close the Public Hearing, seconded by Mr. Bailey
Vote: 6:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Timothy Bailey, Brian Sullivan, John August, and Al Donoghue.

Mr. Dickson moved to close discussion, seconded by Mr. August.
Vote: 6:0 in favor. Motion carried. Discussion Closed.

Mr. Donoghue made a motion to grant the special permit.

Mr. Donoghue moved to **grant the Special Permit** for Case No. **2025-14**, Elizabeth Mobassaleh, c/o Gus De Alcantara, 11 Lake St, Hudson, MA 01749, owner of the property located at **19 Shannon Rd, Assessors' Map 41, Parcel T29**, in the RR Zoning District, from §325-54 A (2) "Nonconforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations, to enclose a breezeway, and raze and replace an attached garage on their pre-existing nonconforming single-family dwelling. Pursuant to the Harwich Zoning By-laws §325-54 M.G.L Chapter 40a section 6. Granting is consistent with the Gale, Deadrick and related cases as there will be an intensification of one or more existing non-conformities, no new non-conformity, and no substantial detriment to the entire neighborhood, on a pre-existing, non-conforming lot and as the proposed structure will not create any additional negative impacts with respect to traffic, noise, odor, and congestion. Any relief not expressly granted hereunder is hereby denied. All work will be done in accordance with the plans submitted with the application. The grant and approval are subject to the following conditions:

1. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
2. That for the life of the approved project, all construction vehicles will be parked on the Applicant's property and not on any public street or road.
3. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Motion seconded by Mr. Bailey. Vote 4:0 in favor.
Motion carried. Special Permit Granted

Case No. **2025-15, Jeffrey Lang manager of 11 River Bend LLC**, c/o Andrew L. Singer, P.O. Box 67, Dennisport, MA 02639, owner of the property located at **11 River Bend, Assessors' Map 1, Parcel G1-9**, in the RL Zoning District. The Applicant seeks a Special Permit from §325-54 A (4) & (5) "Nonconforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming single-family dwelling and detached garage, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 6.

Attorney Singer presented the case on behalf of the property owner. Engineer Dan Croteau was also present.

Mr. Sullivan stated the Board had received comments from abutters.

Mr. Singer presented the Board with an additional hand out in response to the abutter comments that were received this afternoon before the hearing.

Mr. Singer gave a summary of the proposed project noting the 2 separate structures currently on the lot and what their pre-existing non-conformities are. Mr. Singer also noted the location of the lot and the environmental factors such as the floodplain the lot and structure are in.

Mr. Singer stated they are proposing to demolish both structures and replace with a more conforming structure. Mr. Signer argued that pre-existing single-family structures are afforded special permits under the by-law.

Mr. Singer responded to a letter submitted to the Board by an abutters Attorney.

Mr. Signer argued that the project meets all the requirements of the by-law and that the new structure would be elevated to new height but overall would be a smaller structure then the existing structure. Mr. Singer stated that all though the height is pre-existing non-conforming and that they would be slightly intensifying the height due to FEMA requirements they would be eliminating the non-conforming existing third story. Mr. Singer stated they would be decreasing the gross floor area of the house.

Mr. Singer argued the proposed project would not be more substantially more detrimental as it relates to the building height and stated that they are also reducing the building and site coverage. Mr. Singer argued the lot would be improved with a new flood compliant structure and that there would not be and increase in noise, odor, or traffic and argued that the project qualifies for a special permit as that is what the Zoning Enforcement Officer referred the case to the Board for. Mr. Signer argued this project met the elements of the Gale and Dietrich case and that they are not creating any new non-conformities.

Mr. Singer argued the proposed structure would not be substantially more detrimental to the entire neighborhood and asked the Board to grant the Special Permit.

Mr. Dickson questioned if the building height needed relief.

Mr. Signer stated he believed it did as the height is pre-existing non-conforming at 31ft and will be increased by 2ft therefore needs relief.

Mr. Sullivan asked for clarification about the garage as what is being proposed does not include the garage.

Mr. Signer stated that the detached garage was being replaced with the single-family dwelling.

Ms. Raatz asked why the new house will not be placed in the same location as the existing house.

Mr. Signer stated that was designed that way to remove the structure out of the high velocity flood zone.

Ms. Raatz asked why the house needed be so far north and couldn't be it be rotated to avoid the north side setback non-conformity.

Mr. Croteau stated this was because of the location of the septic system. Mr. Signer stated this was also to move the structure away from the water.

Mr. Sullivan asked for questions and comments from the public.

Mary Cahalane stated concerns regarding the wetlands protections regulations and conservation regulations. Ms. Cahalane stated concerns regarding a possible commercial scallop farm that would be located in the river, and asked what the use of the new structure would be.

Mr. Sullivan stated that the Zoning Board does not have authority over Conservation jurisdiction.

Attorney Hill attended the meeting virtually and spoke to the Board in opposition of the proposed project. Mr. Hill stated he submitted a 7-page letter to the Board this afternoon arguing that the project does not qualify for relief. Mr. Hill argued the project would intensify northside setback, would not decrease an eligible non-conformity and that it would increase and existing non-conformity and would require a variance under the Harwich by-law. Mr. Hill argued that to qualify for a special permit under section 6 the proposed changes must conform to the local by-law.

Mr. Hill stated he believed the project would be substantially more detrimental to the neighbors to the north.

Mr. Hill argued the detached garage is not a residential structure and that it does not qualify for a special permit.

Mr. Hill questioned if the height is protected as a pre-existing non-conforming structure. Mr. Hill stated he would like to see the applicant provide documentation as to when the third story was constructed.

Mary Luo Cahalane spoke to the Board in opposition of the proposed project with concerns regarding Conservation issues.

Mr. Signer rebutted comments from abutters and Attorney Hill.

Mr. Singer argued that the third story has been longer than 10 years and is legally pre-existing non-conforming and protected under section 6.

Mr. Croteau stated it is not realistic to save the existing structure which is why they are proposing a new dwelling.

Mr. Sullivan stated he would like to see a continuance to request an opinion from town counsel, to confirm status of setbacks of garage and using that for the new home. He would also like an opinion from counsel regarding the building height.

Mr. August agreed with the Chair.

Mr. Sullivan asked if the applicant would agree with a continuance.

Mr. Signer stated they would.

Mr. Sullivan made a motion to continue Case No. **2025-15, Jeffrey Lang manager of 11 River Bend LLC**, c/o Andrew L. Singer, P.O Box 67, Dennisport, MA 02639, owner of the property located at **11 River Bend, Assessors' Map 1, Parcel G1-9**, to the next scheduled public hearing on May 28, 2024.

Motion seconded by Mr. Donoghue. Vote 6:0 in favor.
Motion carried. Case Continued.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

Case No. **2025-16, Bonde Eva M TRS ET AL, Bonde Leslie W Jr TRS**, c/o William F. Riley, P.O Box 707, Chatham, MA 02633, owner of the property located at **121 Belmont Rd, Assessors' Map 3, Parcel H2-58**, in the RH-1 Zoning District. The Applicant seeks a Special Permit from §325-54 A (4) & (5) "Nonconforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming single-family dwelling and garage, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 6.

Mr. Donoghue read the case into the record.

Mr. Donoghue read comments submitted by internal departments.

Mr. Donoghue stated the Board received a letter from an abutter in opposition of the project.

Attorney Bill Riley presented the case to the Board on behalf of the property owner.

Mr. Riley gave a summary of the proposed project to the Board noting the location of the lot and the existing non-conformities and conformities. Mr. Riley stated they are reducing the south side setback slightly and eliminating the east side setback by relocating the garage to the front of the proposed dwelling. Mr. Riley stated they will not be exceeding the building height. Mr. Riley argued that the proposed project is not substantially more detrimental and argued the new structure would not create a nuisance, increase traffic or odor and ask the Board to grant the Special Permit as it meets the requirements of the Gale and Ditrich case.

Mr. Sullivan ask when construction would begin.

Mr. Riley stated not until sometime in September.

Mr. Riley stated he believed the lot is large enough to contain all construction vehicles on the property.

Mr. Sullivan stated the location of lot may impact seasonal traffic.

Mr. Sullivan asked what the building square footage is of the main dwelling.

Mr. Riley stated according to the Assessing records it is 1,200 sq ft.

Mr. Sullivan asked what the square footage is for the proposed dwelling.

Mr. Riley stated 6,800 sq ft.

Mr. Dickson asked if the side yard setback is the only non-conformity, they need relief from.

Mr. Riley stated that is correct.

Abutter Dennis Gamache spoke to the Board in opposition of the proposed project.

Mr. Gamache stated concerns regarding the setback to his property line. Mr. Gamache stated he had concerns about the increase in the building height, and how it relates to the views from his property. Mr. Gamache stated he believed the house is currently 13ft from the lot line not 9.2'.

Mr. Sullivan stated he thought the new construction would significantly alter the character of the neighborhood and would be a substantial detriment to the neighborhood due to the size and height of the proposed structure.

Mr. Riley argued that the PLS that did the site plan is correct with his determination of where the property line lays. Mr. Riley argued that the construction is not substantially more detrimental to the entire neighborhood as there are other 2 story houses in the neighborhood in like size.

Mr. Riley argued that other than the side setback all other zoning requirements have been met.

Mr. August stated that he believed it is not a substantial detriment to the neighborhood.

Ms. Raatz stated she had concerns about the size of the proposed structure.

Mr. Dickson stated he believed the proposed structure met the elements of the by-law and that the detriment is the existing structure.

Mr. Bailey stated he agreed with Mr. Dickson.

Information Submitted as part of this application which will be incorporated in this decision include:

1. The Petitioner's Zoning Board of Appeals application and narration.
2. Certified Site Plan by Down Cape Engineering, Inc, dated March 20, 2025.
3. Design drawings by Ronald E. Vestri, Architect, dated 03/21/2025, sheets 1, 2, 3 and A3.
4. A letter provided by Down Cape Engineering, Inc., dated 04-29/2025 showing the building height calculations.
5. A letter dated 03/26/2025 by the Harwich Building Official denying the Building Application.
6. Interdepartmental Comments.
7. Site Summary dated 04 /14/2025.

Mr. Sullivan moved and Mr. Dickson Seconded that the Board, after viewing the Property in question and after review of the facts, plans, application, and evidence presented at this hearing and after deliberations on the same made the following findings:

1. The lot is in the RH-1 Zoning District.
2. The property is located at 121 Belmont Rd.
3. The project proposes to raze and replace a pre-existing non-conforming single-family dwelling and detached garage requiring a Special Permit.
4. The lot is pre-existing non-conforming regarding area requirements with 24,882sq ft and frontage with 125.12'.
5. The existing dwelling is non-conforming regarding the South side setback at 9.3' from the side lot line, and the existing detached garage is non-conforming the East side setback at 12.5' from the rear lot line.
6. The proposed dwelling will be conforming to all setbacks except the South side setback which will remain non-conforming however, with the proposed changes the setback will be going from 9.2' from the lot line to 9.3' from the lot line, slightly decreasing the existing non-conformity. The building height will remain conforming with the proposed height being 29.11 from average grade
7. The building height, building coverage and site coverage are all currently conforming and will remain so.
8. No new non-conformities will be created.
9. The rear setback non-conformity will be eliminated.
10. The structure will remain a single-family dwelling.
11. The proposed single-family dwelling will not create any additional negative impacts with respect to traffic, noise, odor, and congestion.
12. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

The Board Voted 6-0-0 in Favor, accepting the findings and conditions.

Mr. Dickson moved to close the Public Hearing, seconded by Mr. August
Vote: 6:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Al Donoghue, Brian Sullivan, Timothy Bailey, John August, and Kenneth Dickson.

Mr. Dickson moved to close discussion, seconded by Mr. Donoghue.
Vote: 6:0 in favor. Motion carried. Discussion Closed.

Mr. Donoghue made a motion to grant the special permit, Seconded by Mr. Dickson.

Mr. Sullivan asked if the applicant would like a straw vote first.

Mr. Riley agreed

Straw Vote: 3-2 with Sullivan and Donoghue in opposition.

Applicant asked for a continuance.

Mr. Sullivan made a motion to continue Case No. **2025-16**, Bonde Eva M TRS ET AL, Bonde Leslie W Jr TRS, c/o William F. Riley, P.O Box 707, Chatham, MA 02633, owner of the property located at **121 Belmont Rd, Assessors' Map 3, Parcel H2-58**, to the scheduled public hearing on June 28, 2024.

Motion seconded by Mr. Donoghue. Vote 6:0 in favor.
Motion carried. Case Continued.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

Case No. **2025-17, William R Glover III**, c/o J. Thaddeus Eldredge, 1038 Main St, Chatham, MA 02633, owner of the property located at **33 Old Colony Rd, Assessors' Map 41, Parcel C4-A**, in the CV and Harwich Center Overlay Zoning Districts. The Applicant seeks a Variance from §325 – Attachment 2, Table 2, Area Regulations, to construct a Multi Family Dwelling, pursuant to the Harwich Zoning By-laws §325-52 and MGL Chapter 40A Section 10.

Mr. Donoghue read the case as presented into the record.

Mr. Donoghue read comments submitted from internal departments.

Engineer Thadeus Eldredge presented the case to the Board on behalf of the property owner.

Mr. Eldredge gave a summary of the proposed project noting the location of the lot and the zoning districts it is located in. Mr. Eldredge state they are proposing a multi-family dwelling and stated the property owner would like to rent the unit to workforce of the police and or fire department.

Mr. Eldredge stated they are proposing renovating the existing structure and constructing and new attached addition which will house 2 units.

Mr. Eldredge stated they are asking for a variance for the rear setback requirements.

Mr. Eldredge argued the lot and structure are unique due to the shape and location of the existing structure.

Mr. Eldredge argued that other than the setback non-conformity the project meets all other zoning requirements.

Mr. Sullivan asked for a project construction date.

Mr. Eldredge stated maybe sometime in the fall.

Bob Rudick an abutter spoke to the Board in opposition of the project. Mr. Rudick argued that a multifamily structure would radically change the character of the neighborhood.

Mary Smith an abutter spoke to the Board questioning what section of the by-law the application falls under.

Molly Bench an abutter spoke to the Board asking what extent to the Variance is the relief being granted?

Eben Sullivan an abutter spoke to the Board in opposition of the proposed project.

Brenda Azure an abutter spoke to the Board in opposition of the proposed project with concerns of the change of use.

Matt Finkle an abutter spoke to the Board in opposition of the proposed project.

Mr. August stated that because this lot is in the commercial district other commercial uses could be implemented at this property.

Mr. Sullivan stated he did not want to make judgments based on what could happen but for only what is before the Board tonight.

The board discussed the documents submitted, possible conditions and recommended findings of fact.

Information Submitted as part of this application which will be incorporated in this decision include:

1. Application and Narrative.
2. Certified Plot Plan by East-SouthEast, LLC., dated 02/14/2025 and revised 04/02/2025
3. Design drawings by Zibrat & McCarthy., sheets, A1, A2, A3, A4, A5, A6, A7, and A8
4. Interdepartmental Comments.
5. Site Summary Dated 04/14/2025.
6. Testimony heard from abutters
7. A duly advertised hearing on 04/30/2025.

Mr. Sullivan moved and Mr. Dickson Seconded that the Board, after viewing the Property in question and after review of the facts, plans, application, and evidence presented at this hearing and after deliberations on the same made the following findings as amended:

1. The lot is in the Commercial Village (CV) and Harwich Center Overlay Zoning Districts.
2. The property is located at 33 Old Colony Rd.
3. The project proposes to construct a Multi Family Dwelling.
4. The lot is pre-existing non-conforming regarding area requirements at 14,468sq ft and the frontage at 129.44'
5. The existing single-family dwelling is non-conforming regarding the rear setback at 18.6' where 20ft is required for the single-family use.
6. The proposed renovation and addition will not conform to the rear setback requirements for multi-family dwellings requiring a Variance.
7. The building height, building coverage and site coverage are all currently conforming and will remain so.
8. The use of the structure will change from single-family to multi-family.
9. The proposed multi-family dwelling will not create any additional negative impacts with respect to traffic, noise, odor, and congestion.
10. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
11. The issuance of building permits is subject to a Special Use permit and site plan review by the Planning Board

12. A violation of the terms and conditions of this Variance may be enforced as a violation of the Harwich Zoning Bylaw, pursuant to G.L. c 40A Section 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marilyn Raatz, and John August.

The Board Voted 6-0-0 in favor, accepting the findings and conditions.

Mr. Dickson moved to close the Public Hearing, seconded by Mr. Donoghue
Vote: 6:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Al Donoghue, Brian Sullivan, Timothy Bailey, John August, and Kenneth Dickson.

Mr. Dickson moved to close discussion, seconded by Mr. Bailey.
Vote: 6:0 in favor. Motion carried. Discussion Closed.

Mr. Donoghue made a motion to grant the Variance.

Mr. Donoghue moved that the Board grant the Variance for Case No. **2025-17, William R Glover III**, c/o J. Thaddeus Eldredge, 1038 Main St, Chatham, MA 02633, owner of the property located at **33 Old Colony Rd, Assessors' Map 41, Parcel C4-A**, in the CV and Harwich Center Overlay Zoning Districts, §325 – Attachment 2, Table 2, Area Regulations to construct a Multi Family Dwelling. The Board has found that the applicant meets the requirements of the Harwich Bylaws and M.G.L. Chapter 40A Section 10, due to the shape, topography and conditions of the land and the failure of the Board to make this grant will result in substantial hardship to the applicant. The Board further finds that the condition is specific to this property and does not generally affect the entire district, and that there will be no substantial detriment to the public good by the granting of this Variance and that its granting will not nullify or substantially derogate from the intent or purpose of the Bylaw. All work shall be performed in accordance with the plans submitted with this application. Pursuant to the Harwich Zoning Bylaws §325- 52 and MGL Chapter 40A Section 10. The grant and approval are subject to the following conditions:

1. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
2. The issuance of building permits is subject to a Special Use permit and site plan review by the Planning Board
3. A violation of the terms and conditions of this Variance may be enforced as a violation of the Harwich Zoning Bylaw, pursuant to G.L. c 40A Section 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Motion seconded by Mr. Dickson. Vote 5:0 in favor.
Motion carried. Variance Granted

Case No. **2025-18, Robert Cleveland & Jillian B Cleveland**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **24 Pilgrim Rd, Assessors' Map 7, Parcel C11**, in the RH-1 Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54 (A) (7) "Alteration or extension of other structures", §325-54 A (1) - (5) "Nonconforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming Single Family Guest House, pursuant to the Harwich Zoning By-laws §325-54 and 52 and MGL Chapter 40A Sections 6 and 10.

Mr. Sullivan stated the applicants submitted a request to continue the case to next public hearing.

Mr. Sullivan made a motion to continue Case No**2025-18, Robert Cleveland & Jillian B Cleveland**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **24 Pilgrim Rd, Assessors' Map 7, Parcel C11**, to the next scheduled public hearing on May 28, 2024.

Motion seconded by Mr. Donoghue. Vote 6:0 in favor.
Motion carried. Case Continued.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

Case No. **2025-19, James S Welch Tr of Welch/Breen Family Harwich port**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **0 Snow Inn Rd, Assessors' Map 8, Parcel F2**, in the RL Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54 (A) (7) "Alteration or extension of other structures", 325 – Attachment 3, Table 3, Height and Bulk Regulations and §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming Boat House, pursuant to the Harwich Zoning By-laws §325-54 and 52 and MGL Chapter 40A Sections 6 and 10.

Mr. Donoghue read the case into the record.

Attorney William Crowell and property owner James Welch presented the case to the Board.
Mr. Donoghue read comments submitted from internal departments.

Mr. Crowell gave a summary of the proposed project noting the unique shape and size of the lot as well as the structure.

Mr. Crowell stated they are requesting a variance due to the fact that the existing and proposed structure is a boat house (an accessory structure) and not a single- or two-family dwelling therefore under the by-law does not qualify for a special permit.

Mr. Crowell stated they are proposing to raze and replace the existing boat house but that the existing setback non-conformities would not be changed.

Mr. Crowell stated that if the Variance is not granted the Boat house it would cause a substantial financial hardship and that it would continue to deteriorate. Mr. Crowell argued there would be no detriment to the neighborhood.

Mr. Crowell asked the Board to grant the Variance.

The Board discussed the submitted documents, proposed conditions and recommended findings

Information Submitted as part of this application which will be incorporated in this decision include:

1. Application and Narrative.
2. Certified Plot Plan by JC Engineering., dated 12/12/2024, revised 01/31/2025 and 03/07/2025
3. Design drawings by ERT Architects, dated 12/06/2024 revised 1/30/2025, 02/12/2025 and 03/04/2025 sheets, A.1 and A.2.
4. A letter dated 02/07/2025 by the Harwich Building Official denying the Building Application.
5. Interdepartmental Comments.
6. Site Summary Dated 04/14/2025.
7. A duly advertised hearing on 04/30/2025.

Mr. Sullivan moved and Mr. Dickson Seconded that the Board, after viewing the Property in question and after review of the facts, plans, application, and evidence presented at this hearing and after deliberations on the same made the following findings as amended:

1. The lot is in the Residential Low Density (RL)
2. The property is located at 0 Snow Inn Rd M:8 P: F2.
3. The project proposes to raze and replace a pre-existing boat house.
4. The lot is pre-existing non-conforming regarding the lot size at 1,307sq ft and frontage being non-existent. The building coverage is non-conforming at 77.1% where 15% is the maximum allowed, and the site coverage is non-conforming at 87.1% where 30% is the maximum allowed.
5. The existing structure is non-conforming regarding all setback requirements as follows: North side setback at 0.0' from the lot line, East side setback at 18.4' from the lot line, South side setback at 0.8' from the lot line, and the West side setback at 0.0' from the lot line.
6. The building height is currently conforming and will remain so.
7. The structure will remain a boat house.

8. The proposed boat house will not create any additional negative impacts with respect to traffic, noise, odor, and congestion.
9. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
10. A violation of the terms and conditions of this Variance may be enforced as a violation of the Harwich Zoning Bylaw, pursuant to G.L. c 40A Section 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

The Board Voted 6-0-0 in favor, accepting the findings and conditions.

Mr. Dickson moved to close the Public Hearing, seconded by Mr. Bailey
Vote: 6:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Al Donoghue, John August, Marylin Raatz, Kenneth Dickson, and Timoty Bailey.

Mr. Donoghue made a motion to grant the Variance.

Mr. Donoghue moved to **grant the Variance** for Case No **2025-19, James S Welch Tr of Welch/Breen Family Harwich port**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **0 Snow Inn Rd, Assessors' Map 8, Parcel F2**, in the RL Zoning District, from §325-54 (A) (7) "Alteration or extension of other structures", 325 – Attachment 3, Table 3, Height and Bulk Regulations and §325 – Attachment 2, Table 2, Area Regulations to raze and replace a pre-existing nonconforming Boat House, due to the shape, topography and conditions of the land and the failure of the Board to make this grant will result in substantial hardship to the applicant. The Board further finds that the condition is specific to this property and does not generally affect the entire district, and that there will be no substantial detriment to the public good by the granting of this Variance and that its granting will not nullify or substantially derogate from the intent or purpose of the Bylaw. All work shall be performed in accordance with the plans submitted with this application. Pursuant to the Harwich Zoning By-laws §325- 52 and MGL Chapter 40A Section 10. The grant and approval are subject to the following conditions:

1. During the life of the project, there shall be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year.
2. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning Bylaw pursuant to G.L. c 40A, Sec. 7 and the Harwich Zoning Bylaw, as these may be amended from time to time.

Motion seconded by Mr. Dickson. Vote 5:0 in favor.
Motion carried. Variance Granted

III. APPROVAL OF MINUTES

A. March 26, 2025, Meeting Minutes.

Mr. Sullivan moved to approve the Minutes for the March 26, 2025, meeting as printed, seconded by Mr. August.

Members of the Board voting: Chairman Brian Sullivan, Clerk Al Donoghue, Kenneth Dickson, Timothy Bailey, Marylin Raatz, and John August.

Vote 4:0:2 in favor, with Kenneth Dickson and Marylin Raatz abstaining, minutes approved.

IV. NEW BUSINESS

- A.** The Board discussed how to organize all the public comments that were being submitted for the 40B application.

V. OLD BUSINESS

VI. CORRESPONDENCE/BRIEFINGS

VII. ADJOURN

Mr. August moved to adjourn, seconded by Mr. Dickson.
Vote 4:0 in favor. Meeting adjourned at 10:05 PM.

Respectfully submitted,

Rachel Lohr
Board Secretary