

**MINUTES
TOWN OF HARWICH
ZONING BOARD OF APPEALS
6:30PM WEDNESDAY, MAY 28, 2025
TOWN HALL – GRIFFIN HEARING ROOM**

RECEIVED
TOWN CLERK
HARWICH, MA
2025 JUN 26 P 1:09

MEMBERS PARTICIPATING: Chairman Brian Sullivan, Clerk Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

ALSO PARTICIPATING:

MEMBERS ABSENT: Kenneth Dickson, John August, Timothy Bailey.

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. **2025-15, 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. **(Continued from 04.30.2025)**

Mr. Donoghue read the case into the record.

Mr. Sullivan stated the Board received a request for continuance from the applicant.

Mr. Sullivan made a motion to continue the project application for 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, to the next public hearing on June 25, 2025.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Motion seconded by Mr. Murphy. Vote 5:0 in favor.
Motion carried. Case Continued.

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. **(Continued from 04.30.2025)**

Mr. Donoghue read the case into the record.

Mr. Sullivan read comment submitted from internal departments.

Mr. Sullivan stated he received a letter from an abutter in opposition of the proposed project.

Attorney's William Crowell and Michael Donovan presented the case to the Board on behalf of the property owners.

Mr. Donovan noted that it was originally on the agenda for last month's public hearing but that they had been contacted by the abutter expressing concerns about the location of the re-build. Mr. Donovan explained that they then requested a continuance to this month's hearing so that they could communicate with the abutter and their Attorney, and that as a result of those conversation there were revisions to the proposed plans, which the Board had received prior to this hearing.

Mr. Donovan gave a summary of the proposed project noting the history of the existing structures highlighting the nature of the pre-existing nonconforming single-family guest house. Mr. Donovan stated the current setbacks of the existing structure and how it is currently constructed over the south side lot line. Mr. Donovan explained the new structure would be relocated onto the Cleveland's property and 6ft from the southside lot line. Mr. Donovan stated the new structure would be 11.2ft from the rear lot line to the deck but 15.4ft from the house.

Mr. Donovan argued the application met the requirements of a special permit and that the proposed structure would not be a substantial detriment, as it improves all non-conformities.

Mr. Donovan also stated they received correspondence from the abutter's attorney stating based on the revised plans they would not be in attendance at this evening's hearing.

Mr. Donovan referenced an opinion from Town Counsel that was issued on 05.06.2025 stating that the Board could grant Special Permit's for accessory residential structures under Chapter 40A Section 6 of Mass General Law.

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. J.M. O'Reilly & Associates, Inc., existing conditions dated November 4, 2024, and revised May 12, 2025, and proposed conditions dated February 21, 2025, and revised March 20, 2025, March 21, 2025, May 16, 2025.
3. Letter submitted by J.M. O'Reilly & Associates, Inc, dated April 9, 2025, calculating building height based on average grade.
4. Design drawings by McPhee Associates of Cape Cod, dated 03/21/2025 and revised 05/21/2025, sheets A1.
5. Revised Narrative dated 05/23/2025
6. Interdepartmental Comments.
7. Site Summary Dated 05/27/2025.

Mr. Sullivan moved and Ms. Raatz 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 Residential High Density 1 (RH-1)
2. The property is located at 24 Pilgrim Rd.
3. The project proposes to raze and replace a pre-existing single-family guest house.
4. The lot is pre-existing non-conforming regarding area requirements at 20,008sq ft.
5. The existing single-family guest house is non-conforming regarding the rear setback at 5.9' from the lot line and is 0.6' over the South side property line.
6. The proposed single-family guest house will be non-conforming regarding the rear setback at 11.7' from the lot line and 6.0' from the South side property line.
7. The front setback, northside setback, building height, building coverage and site coverage are all currently conforming and will remain so.
8. The structure will remain a single-family guest house.
9. Town Counsel issued a relevant opinion via email dated 05.06.2025 after the original filing of the building permit and filing of the ZBA application, this opinion indicates structures accessory to single and two-family residential structures are to be afforded the same M.G.L Ch. 40A Sec. 6 protections as those afforded to the primary residential structures.
10. The proposed dwelling 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. The building permit is subject to the approval of the Board of Health.
14. 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: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

The Board Voted 5-0-0 in Favor, accepting the findings and conditions.

Mr. Murphy moved to close the Public Hearing, seconded by Mr. Nunnally
Vote: 5:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Mr. Nunnally moved to close discussion, seconded by Mr. Murphy.
Vote: 5:0 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. **2025-18, 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, 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 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. The building permit is subject to the approval of the Board of Health.
4. 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. Murphy. Vote 5:0 in favor.
Motion carried. Special Permit Granted

Case No. **2025-22, Charles F Wagner Jr & Susan E Wagner**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **42 South St, Assessors' Map 14, Parcel A6-1 & A6-1B**, in the RM 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", §325-52 "Variances" and §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming Accessory Structure, 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.

Mr. Donoghue read comments submitted from internal departments.

Attorneys William Crowell and Michael Donovan presented the case to the Board on behalf of the property owners.

Mr. Donovan gave a summary of the proposed project stating they are proposing to raze and replace the existing non-conforming accessory structure. Mr. Donovan stated they will be improving the setbacks on the South and West side of the lot, with the southside remaining non-conforming but the westside setback would become conforming.

Mr. Donovan stated that prior to the Town Counsel opinion that was issued on May 6, 2025, this detached accessory structure would have required a Variance from the Board, but that since this opinion, the Board now can issue relief for this structure under a special permit.

Mr. Donovan reiterated that the only zoning regulation the structure needed relief from is the southside setback.

Mr. Donovan asked the Board to grant the Special Permit.

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. A letter dated 04/08/2025 by the Harwich Building Official denying the Building Application.
3. A Certified Site Plan by Homestead Consulting Engineers, March 10, 2025, and revised April 7, 2025.
4. Design drawings by Schneeberger Collective, dated 04/28/2025, sheets EX1.0, EX1.1, EX2.0, EX2.1, EX3.0, A1.0, A1.1, A2.0, A2.1, A3.0
5. Interdepartmental Comments.
6. Site Summary Dated 05/19/2025.

7. Legal Opinion from Town Counsel regarding “Accessory Residential Structures” dated 05.06.2025.

Mr. Sullivan moved and Ms. Raatz 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 Residential Medium Density (RM)
2. The property is located at 42 South St Map: 14 Parcels: A6-1 & A6-1B.
3. The project proposes to raze and replace a pre-existing accessory residential structure.
4. The lot is pre-existing non-conforming regarding area requirements at 17,510sq ft.
5. The existing accessory residential structure is non-conforming regarding the south side setback, and the westside setback.
6. The proposed accessory residential structure is non-conforming regarding the south side setback and will eliminate the west side setback nonconformity.
7. No new nonconformities will be created.
8. The structure will remain an accessory residential structure.
9. Town Counsel issued a relevant opinion via email dated 05.06.2025 after the original filing of the building permit and filing of the ZBA application, this opinion indicates structures accessory to single and two-family residential structures are to be afforded the same M.G.L Ch. 40A Sec. 6 protections as those afforded to the primary residential structures.
10. The proposed structure 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: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

The Board Voted 5-0-0 in Favor, accepting the findings and conditions.

Mr. Murphy moved to close the Public Hearing, seconded by Mr. Nunnally
Vote: 5:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Mr. Murphy moved to close discussion, seconded by Mr. Nunnally.

Vote: 5:0 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. **2025-22, Charles F Wagner Jr & Susan E Wagner**, c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **42 South St, Assessors' Map 14, Parcel A6-1 & A6-1B**, in the RM Zoning District, from §325-54 (A) (7) "Alteration or extension of other structures", §325 – Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing nonconforming Accessory Structure. Pursuant to the Harwich Zoning By-laws §325-54 M.G.L Chapter 40a section 6.

The purpose of G.L Chapter 40A Sections 6 is to afford special protection to single- and two-family residential structures. It is the opinion of this Board that a structure accessory to single- or two-family residential structure is, for the purpose of zoning, also a single- or two-family residential structure, and nothing in G.L. Chapter 40A warrants or requires a contrary conclusion. It further appears from Bjorklund, the Supreme Judicial Court intended that the special protection be afforded to single, and two-family structures would also apply to accessory structures. Therefore, it would be unduly harsh and contrary to the intent of the Zoning Act to afford less protection to a structure accessory to a single -family dwelling than the dwelling itself.

Granting is further consistent with Gale, 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 shall be performed in accordance with the plans submitted with this application. Said 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. Nunnally. Vote 5:0 in favor.

Motion carried. Special Permit Granted

Case No. **2025-23, John & Megan O’Leary Trustees of the John A. O’Leary Trs., c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646** owner of the property located at **33 Harbor View Rd, Assessors’ Map 6, Parcel E5-8**, in the RH-1 Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54 (A) (2) “Nonconforming structures and uses”, §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations to perform a renovation and partial 2nd story addition to their pre-existing non-conforming single-family dwelling, 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.

Mr. Donoghue read comments submitted by internal departments.

Attorneys William Crowell and Michael Donovan presented the case to Board on behalf of the property owners.

Mr. Crowell gave a summary of the proposed project noting they are seeking perform a renovation and a partial 2nd story addition on the existing structure. Mr. Crowell explained this is a pre-existing nonconforming single-family dwelling. Mr. Crowel explained there would be no change to the footprint of the structure and that the renovations would be internal to the basement and first floor, and that the 2nd story addition would be over approximately ¾ of the first floor.

Mr. Crowell explained that the reason they are before the before is because the second story addition would be constructed within the required setback, which creates new habitable space within the setback and increases the building height within the setback as well.

Mr. Crowell argued this case met the elements of the Gale case and Harwich Zoning By-laws and qualified for relief in the form of a Special Permit. Further Mr. Crowell argued it would not result in a substantial increase in noise, odor, congestion or the like, and no increase in traffic and would not create a nuisance. Mr. Crowell stated there would be no substantial detriment to the neighborhood and asked the Board to grant the Special Permit.

Mr. Crowell stated they would work with the Health Department to address the concerns that were raised.

Mr. Sullivan stated he believed the proposed project would not be a detriment to the neighborhood.

Mr. Crowell mentioned corrections to the findings of fact and application documents submitted as part of the record.

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. A letter dated 04/08/2025 by the Harwich Building Official denying the Building Application.
3. A Certified Site Plan by Moran Engineering Assoc., dated February 12, 2025.
4. Design drawings by SV Design, dated 04/25/2025, sheets Z1, Z2, Z-01, Z-02, Z-03, Z-04, Z-05, Z-06, Z-07.
5. Interdepartmental Comments.
6. Site Summary Dated 05/20/2025.

Mr. Sullivan moved and Mr. Murphy 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 High Density 1 (RH-1)
2. The property is located at 33 Harbor View Rd Map: 6 Parcels: E5-8.
3. The project proposes a renovation and partial 2nd story addition to their pre-existing non-conforming single-family dwelling.
4. The lot is pre-existing non-conforming regarding the lot size at 10,250sq ft and frontage at 100'.
5. The primary dwelling is nonconforming regarding the front setback at 10.8' from the front lot line, the east side setback at 12.6' from the side lot line, and the south side setback at 12.3' from the lot line all of which will remain unchanged.
6. The site coverage is nonconforming at and existing 50.4% where 35% is the maximum allowed and will remain unchanged.
7. No new nonconformities will be created.
8. The structure will remain a single-family dwelling.
9. The proposed structure 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. 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.
12. Approval of the project by the Health Department will be required before an issuance of a building permit
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: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

The Board Voted 5-0-0 in Favor, accepting the findings and conditions.

Mr. Nunnally moved to close the Public Hearing, seconded by Mr. Murphy
Vote: 5:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Mr. Nunnally moved to close discussion, seconded by Mr. Murphy.
Vote: 5:0 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. **2025-23, John & Megan O’Leary Trustees of the John A. O’Leary Trs.,** c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **33 Harbor View Rd, Assessors’ Map 6, Parcel E5-8,** in the RH-1 Zoning District, from §325-54 (A) (2) “Nonconforming structures and uses”, §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations, to perform a renovation and partial 2nd story addition to their pre-existing non-conforming 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. Approval of the project by the Health Department will be required before an issuance of a building permit
4. 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. Murphy. Vote 5:0 in favor.
Motion carried. Special Permit Granted

Case No. **2025-24, Joseph L Hooley Trustee of the J + L Realty Trust., c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646** owner of the property located at **14 Wah Wah Taysee Rd, Assessors' Map 6, Parcel F1-7**, in the RH-1 Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54 (A) (4) & (5) "Nonconforming structures and uses", §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations to raze and replace their pre-existing non-conforming single-family dwelling, 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.

Mr. Donoghue read comments submitted by internal departments.

Attorneys William Crowell and Michael Donovan presented the case to the Board on behalf of the property owners.

Mr. Donovan gave a summary of the proposed project noting the location of the lot, and the existing nonconforming setbacks of the single-family dwelling and detached garage.

Mr. Donovan explained that this project is a raze and replace but that in this process they would be eliminating the detached garage and would not be incorporating a garage into the new structure. Mr. Donovan noted they would be intensifying the northside setback from the house.

Mr. Donovan argued the proposed structure would not cause any substantial detriment to the entire neighborhood, and no increase in noise, traffic, and fumes.

Mr. Donovan stated the site coverage is pre-existing nonconforming and that this will be increased due to the increased sized of the driveway.

Mr. Donovan asked the Board to grant the Special Permit.

An abutter Frank Giso spoke to the Board with concerns about construction vehicle parking.

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. A letter dated 04/25/2025 by the Harwich Building Official denying the Building Application.
3. A Certified Site Plan by J.M. O'Reilly & Associates, Inc., dated April 25, 2025, and revised May 28, 2025, Existing Conditions.

4. A Certified Site Plan by J.M. O'Reilly & Associates, Inc., dated April 25, 2025, and revised May 28, 2025, Proposed Conditions.
5. Design drawings by McPhee Associates dated 03/11/2025, sheets A1, A2, A3.
6. Interdepartmental Comments.
7. Site Summary Dated 05/20/2025.

Mr. Sullivan moved and Mr. Nunnally 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 High Density 1 (RH-1)
2. The property is located at 14 Wah Wah Taysee Rd Map: 6 Parcels: F1-7.
3. The project proposes to raze and replace their pre-existing non-conforming single-family dwelling.
4. The lot is pre-existing non-conforming regarding the lot size at 6,400sq ft and frontage at 75'
5. The existing single-family dwelling is nonconforming regarding the front setback, the west side setback, and the north side setback.
6. The proposed new dwelling is nonconforming regarding, the west side setback, and the north side setback, and will eliminate the front setback nonconformity.
7. The site coverage is nonconforming at an existing 38.3% where 35% is the maximum allowed and will be increased to 38.5%
8. No new nonconformities will be created.
9. The structure will remain a single-family dwelling.
10. The proposed structure 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. Approval of the project by the Health and Conservation Departments will be required before the issuance of a building permit.
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: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

The Board Voted 5-0-0 in Favor, accepting the findings and conditions.

Ms. Raatz moved to close the Public Hearing, seconded by Mr. Murphy
Vote: 5:0 in favor. Motion carried. Public Hearing Closed.

Mr. Sullivan assigned the voting members for the case.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Mr. Donoghue moved to close discussion, seconded by Mr. Nunnally.
Vote: 5:0 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. **2025-24, Joseph L Hooley Trustee of the J + L Realty Trust.,** c/o William D. Crowell, Esq., & Michael G. Donovan, Esq., P.O Box 185, Harwich Port, MA 02646 owner of the property located at **14 Wah Wah Taysee Rd, Assessors' Map 6, Parcel F1-7,** in the RH-1 Zoning District, from §325-54 (A) (4) & (5) "Nonconforming structures and uses", §325 – Attachment 2, Table 2, Area Regulations, and §325 – Attachment 3, Table 3, Height and Bulk Regulations, to raze and replace their pre-existing non-conforming 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. Approval of the project by the Health and Conservation Departments will be required before the issuance of a building permit.
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. Nunnally. Vote 5:0 in favor.
Motion carried. Special Permit Granted

Mr. Sullivan called a 5-minute recess.

Mr. Sullivan called the meeting into order at 8:10pm.

III. APPROVAL OF MINUTES

A. April 24, 2025, Meeting Minutes.

Mr. Sullivan moved to approve the Minutes for the April 24, 2025, meeting as printed, seconded by Mr. Murphy.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marilyn Raatz.

Vote 5:0:0 in favor, minutes approved.

B. April 30, 2025, Meeting Minutes

Mr. Sullivan stated corrections to be made on page 2 and 3, to correct spelling on a Board members name.

Mr. Sullivan stated corrections to be made on page 9 regarding the straw vote for 121 Belmont.

Mr. Sullivan moved to approve the Minutes for the April 30, 2025, meeting as amended, seconded by Ms. Raatz.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Vote 5:0:0 in favor, minutes approved.

IV. NEW BUSINESS

A. Update Board on Pine Oaks Village IV 40B Application.

Mr. Sullivan gave an update to the Board members regarding the Comprehensive Permit Application for the Pine Oaks Village IV project.

Mr. Sullivan stated he had a meeting with Town Counsel that consisted of reviewing the tentative meeting schedule, inviting department heads and chairs of board and committees to relevant hearings based on topic of meeting.

Mr. Sullivan made a motion to post the tentative meeting schedule to the website. Seconded by Ms. Raatz

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Vote 5:0:0 in favor, motion approved.

Mr. Sullivan updated the Board stating a company by the name of TCR has been contracted to do the Environmental Pear Reiw of the Pine Oaks Application.

Mr. Sullivan made a motion to invite department heads and chairs of board and committees to relevant hearings based on topic of meeting. Seconded by Ms. Raatz.

Members of the Board voting: Brian Sullivan, Al Donoghue, Christopher Murphy, Dave Nunnally, Marylin Raatz.

Vote 5:0:0 in favor, motion approved.

Mr. Sullivan handed out an informational report to the Board Members regarding the main factors that could justify the denial of a 40B application, and reason the are not justifiable to deny a 40B application. Mr. Sullivan stated that Town Counsel will be providing existing case law examples that relate to each of these items.

V. OLD BUSINESS

VI. CORRESPONDENCE/BRIEFINGS

VII. ADJOURN

Mr. Murphy moved to adjourn, seconded by Mr. Donoghue.
Vote 5:0 in favor. Meeting adjourned at 8:55 PM.

Respectfully submitted,

Rachel Lohr
Board Secretary