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**MINUTES
TOWN OF HARWICH
ZONING BOARD OF APPEALS
6:30PM WEDNESDAY, JUNE 25, 2025
TOWN HALL-GRIFFIN ROOM**

MEMBERS PARTICIPATING: G. Brian Sullivan, Chair, John August, Kenneth Dickson, Alexander Donoghue, Clerk and Chris Murphy

MEMBERS NOT PARTICIPATING: David Nunnally, Timothy Baker and Marilyn Raatz.

I. CALL TO ORDER; RECORDING NOTICE

Mr. Sullivan called the meeting of the Zoning Board of Appeals to order on Wednesday, June 25, 2025 at 6:30PM and read the Recording Notice.

Mr. Sullivan noted for the audience that the Case regarding 121 Belmont Road will be withdrawn without prejudice as requested.

II. PUBLIC HEARINGS

Case No. 2025-15, Jeffrey Lang, manager of 11 River Bend, LLC, % Andrew L. Singer, P.O. Box 667, Dennis Port, 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 S325-54 A(4) & (5) "Nonconforming Structures and Uses" and S325-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 S325-54 and MGL Chapter 40A Section 6. (Continued from 05.28.2025)

Mr. Donoghue read Case No. 2025-15 as presented.

Mr. Sullivan noted that the Board members who originally heard the case in May are present. In addition, Mr. Murphy was not present in May, has completed the requirements under the Mullen Rule and has signed an affidavit.

Attorney Andrew Singer, representing the applicant, identified himself for the record. He also introduced Antonio Butwell, Project Designer, Dan Croteau, Project Engineer and Jeff Land, property owner.

Atty. Singer gave a brief summary of the May meeting and that the Hearing was continued to decide if the application should be for a Special Permit or for a Variance. Town Counsel determined that an appropriate review would be for a Special Permit and he gave the specific reasons and By-laws. He noted that the applicant had submitted a supplemental filing and distributed color copies to Board members. He described the images in detail and explained the

need for the changes. He also noted and explained in detail why the proposed plan would be an improvement to the neighborhood and not a detriment.

Mr. August asked for an explanation of the difference between the existing and proposed dwelling's elevation.

Dan Croteau from Moran Engineering explained the difference in detail as well as the reason for the differences.

Mr. Sullivan read a statement from the Harwich Conservation Commission from the April meeting, stating that they would be recommending to approve the project. He asked that Attorney Singer review the results of the meeting with the Conservation Commission.

Mr. Croteau responded that the meeting with the Conservation Commission had been delayed until next week in hopes of getting approval from the Zoning Board of Appeals first.

Mr. Sullivan noted that the applicant has satisfied the requirements of a Special Permit. He also noted that moving the house away from critical Conservation areas of concern and conditions of land are a reasons to consider a Variance. He noted that the situation with the garage is also a legitimate reason for a Special Permit. There are many reasons for approval. He asked for the basic time frame for the project.

Atty. Singer replied that they need approval from the ZBA, Conservation and the Board of Health which will take at least two months and he projected the fall for the start of construction.

Mr. Sullivan confirmed that construction vehicles will not be on the roadway and that construction would not begin before Labor Day.

Mr. Sullivan opened the meeting to Public Comments and addressed Attorney Hill who was participating remotely.

Atty. Dan Hill noted that he represents several of the neighbors and abutters to this project. He stated that he had sent a letter to the ZBA that afternoon and wanted to put on the record, their rebuttal to Town Counsel's opinion.

Mr. Sullivan confirmed that all Board members have read the letter that Atty. Hill referred to.

Atty. Hill spoke about objections to the height of the house because it is not being constructed in the same footprint, explaining why it should be a Variance. He commented that the jurisdiction of the Board, to issue a Special Permit for a non-conforming structure, was the question presented to Town Counsel. It involved whether or not the detached garage was a residential structure. He referred to the Zoning Act and commented on the setback requirements. He noted that he feels that Town Counsel's interpretation of the By-law is incorrect and he explained why in detail. He summarized that the garage is a nonconformity and does not give license to the applicant to build a new single-family structure within that 25-foot setback or build a new house

that is taller than permitted under the Zoning By-law. He noted that what is being proposed requires a Variance under State law.

Mr. Sullivan noted that after discussions regarding height at the last meeting, it was determined that it was an approved nonconformity based upon the section of the building and the height that was added. He asked that they review last month's decision.

Rachel Lohr, Zoning Compliance Officer, commented that the Board had not come to a conclusion about the nonconformity at the last meeting.

Atty. Singer noted what was discussed at that meeting regarding the height of the existing structure. He noted that the new house is proposed to be on piles. He noted that he disagrees with Atty. Hill and gave a detailed explanation. Atty. Singer noted why he feels that the application should be for a Special Permit, not a Variance and that it is not substantially detrimental.

Noreen Calahane of Harwich asked that if the project is approved, there would be no building between Memorial Day and Labor Day. She also suggested a foundation to lessen the height.

Mr. Sullivan explained the conditions that are generally imposed on construction.

Mr. Croteau noted that regardless of what foundation it is on, the height of the structure remains the same height above the flood plain.

Atty. Hill commented that if the Board goes forward with a Special Permit, he had suggestions for conditions which he offered to send to the Board that evening.

Mr. Sullivan responded that he would need conditions heard at this time.

Atty. Hill listed five requested conditions.

Atty. Singer responded to the requests and explained one objection.

Mr. Sullivan reviewed the information and specific documents submitted by the applicant which will be incorporated into the decision. He confirmed that each Board member had the documents that he listed. Mr. Sullivan noted that the recommended conditions.

Mr. Murphy moved to vote on adopting the Findings of Facts, the documents and the conditions. Seconded.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved to close the Public Hearing, Seconded by Mr. Murphy.

Vote: 5:0 in favor Motion carried.

Mr. Sullivan noted that the members voting on this case are: Al Donoghue, Brian Sullivan, Chris Murphy, John August and Ken Dickson.

Mr. Donoghue moved to close the discussion. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved that Case No. 2025-15 Jeffrey Land manager of 11 River Bend, LLC, % Andrew L. Singer, owner of the property located at 11 River Bend, Assessors' Map 1, Parcel G1-9, in the RL Zoning District. The Applicant has been granted a Special Permit from S325-54 A(4) & (5) "Nonconforming Structures and Uses" and S325-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 S325-54 and MGL Chapter 40A Section 6. The granting is consistent with the Gale and Detreich cases and related cases as there will be an intensification of one or more non-existent nonconformities, no new nonconformity, 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 impact with regard to traffic, noise, odor and congestion. Any relief not expressly granted hereon is hereby denied. All work shall be in accordance with the plans submitted. The application and said grant and approval is subject to the following conditions: During the life of the project there would be no demolition, exterior construction or new landscaping between June 30th and Labor Day of any year. During the life of the approved project construction vehicles shall be parked on the applicant's property and not in any public street or road. The applicant will make reasonable efforts to repair River Bend Road if damaged by construction vehicles. The application is subject to approval by the Harwich Conservation Commission before any building permits are issued. Violation of terms and conditions of the Special Permit may be enforced as a violation of Harwich By-laws pursuant to MGL Chapter 48 Section 7 and the Harwich Zoning By-laws as these may be amended from time to time.

Mr. Sullivan noted the addition of one condition regarding repairing the roads. He also noted that they need to reopen the voting to add approval from the Conservation Commission.

Mr. Singer responded that going before the Conservation Commission is required whether out is a condition or not.

Motion seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-16, Bonds Eva M TRS ET AL, Bonde Leslie W Jr TRS, % William F. Riley, PO Box 707, Chatham, MA 02633, owner of the property located at 121 Belmont Rd. Assessor's Map 3, Parcel H2-58, in the RH-1 Zoning District. The Applicant seeks a Special Permit from s325-54 A (4) & (5) "Nonconforming Structures & Uses" and S325 - Attachment 2, Table 2, Area Regulations, to raze and replace a pre-existing single-family dwelling and garage,

pursuant to the Harwich Zoning By-laws S325-54 and MGL 40A Section 6 (**Continued from 04.30.25**)

Mr. Sullivan stated that Case No. 2025-16 has been continued from 04/30/25. He was in receipt of a letter from counsel requesting that the case be withdrawn without prejudice.

Mr. Donoghue moved to accept the request to withdraw. Seconded.

Vote: 5:0 in favor. Motion carried.

Case No, 2025-25, Peter G Mitchell & Catherine S Mitchell, % Marian Rose, Esq, PO Box 676, Dennis Port, MA 02639 owner of the property located at **14 Harvest Hollow Dr., Assessors' Map 23, Parcel C4-14**, in the RH Zoning District. The Applicant seeks a Special Permit from S325-54 (A)(1) & (5) "Nonconforming Structures" and S325- Attachment 2, Table 2, Area Regulations, to construct an addition on a pre-existing nonconforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40A Section 6.

Mr. Donoghue read Case No. 2025-25 as presented. He noted that the Harwich Board of Health submitted comments indicating that the applicant proposed a five-bedroom dwelling and the pre-existing septic is designed for four bedrooms. A new septic system will be required by a licensed septic installer and must apply for a permit prior to the building permit sign-off. The Historical Commission, Highway Department and Police Departments submitted no concerns. No other comments from Town Departments or abutters were received.

Atty. Rose noted that she was present and representing Peter Mitchell who was also present. She explained the three additions, two of which need Zoning relief, which she described in detail as shown on plans. She noted what in the new plan is non-conforming and what is conforming. Atty. Rose noted why, as proposed, the project is not substantially more detrimental to the neighborhood than the existing non-conformities. She also noted a discrepancy in the plans. The plans have been corrected to read, for the record, 15.0. She noted that the applicant is committed to submitting an adequate new septic system to the Board of Health.

Mr. Mitchell noted that he anticipates an October 15th start date. He can maintain all construction vehicles his property.

Mr. Sullivan asked for public comments regarding this case.

Dottie Davies of Bell Brook Lane, an abutter, asked if there was Conservation land between the two properties. She suggested that there is property there that belongs to the Trust. She also asked how close the garage would be to her lot line.

Mr. Sullivan replied that he is not aware of that. Conservation has not indicated that there is a reason for the applicant to go before the Conservation Commission.

Mr. Sullivan did not have that answer.

Atty. Rose replied that she does not have that answer. She noted that it would be 15 feet from the property line, but she was unsure of the location of Ms. Davies' house.

Board members looked at the plans and noted that the garage is 15 feet from the Conservation easement. The house will not be any closer to Ms. Davies than it is at this time.

Atty. Rose noted a correction on #5 of the recommended findings and conditions, to remove the wording "front set back". Also add on #6, "the side and rear additions are non-conforming".

Mr. Sullivan referred to the Staff Report submitted by Ms. Lohr and the application documents. He noted the recommended conditions.

Mr. Sullivan moved to accept the documents, Finding of Facts and conditions of approval as stipulated. Seconded by Mr. Donoghue.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved to close the Public Hearing. Seconded by Mr. Dickson.

Vote: 5:0 in favor Motion carried.

Mr. Sullivan noted that Board members voting are: Al Donoghue, Brian Sullivan, Chris Murphy, John August and Ken Dickson.

Mr. August moved to close the discussion. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved, Case No, 2025-25, Peter G Mitchell & Catherine S Mitchell, % Marian Rose, Esq., The property is located at 14 Harvest Hollow Dr., Assessors' Map 23, Parcel C4-14, in the RH Zoning District. The Applicant has been granted a Special Permit from S325-54 (A)(1) & (5) "Nonconforming Structures" and S325- Attachment 2, Table 2, Area Regulations, to construct an addition on a pre-existing nonconforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40A Section 6. The granting is consistent with the Gale Detreich and related cases as there will be an intensification of one or more existing non-conformities, no new non-conforming and no substantial detriment to the entire neighborhood. A pre-existing non-conforming lot and proposed structure will not create additional negative impacts with respect to traffic, noise, odor or congestion. Any relief not expressly granted hereunder is expressly denied. All work shall be performed in accordance with the plans submitted with the application. Said grant and approval are subject to the following conditions: During the life of the project, there will be no demolition, exterior construction or new landscaping between June 30 and Labor Day of any year. For the life of the approved project, all construction vehicles will be parked on the applicant's property and not in any public street or road. The approval of the project by the Harwich Health Department will be required and a licensed septic installer must apply for a permit prior to the building permit sign-off. Violation of the terms and conditions of this Special Permit may be enforced as a violation

of the Harwich Zoning By-laws pursuant to MGL Chapter 40A Section 7 and of the Harwich Zoning By-laws as they may be amended from time to time. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-26, Daniel J Trant Trs Al Margaret E Trant Trs. c/o Marian Rose, Esq., PO Box 67, Dennis Port, MA 02639 owner of the property located at **16 Patricia Ln, Assessors' Map 5, Parcel D2-16**, in the RH-1 Zoning District. The Applicant seeks a Special Permit from S325-54 (A)(5) "nonconforming structures and uses", S325-Attachment 2, Table 2, Area Regulations to raze and replace their pre-existing single-family, non-conforming dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL 40A Section 6

Mr. Donoghue read Case No. 2025-26 as presented. He noted that the Harwich Board of Health submitted comments indicating that a licensed septic installer must apply for a permit prior to any building permit sign-off. The Historic Commission, Highway Department and Police Department submitted comments indicating that they had no concerns. Letters were received in support of the application from the following neighbors: Ann Stewart, Gabriel Lance, Patrick Horgan, Beth and Jim Mullen, Marcus and Daneen Debase. No other comments from the Town Departments or abutters were received.

Attorney Marian Rose was present and representing the applicants who were also present. She described the site plan and project to raze and replace in detail. She noted why zoning relief was needed. She also noted why the project will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, district or town and will not increase any existing non-conformities in building coverage, site coverage or setback encroachment. She noted the applicants request for being granted a Special Permit and listed the reasons.

Mr. Sullivan noted that in the past, the bulkhead had to be within the setback. The Harwich Building Commissioner considers the bulkhead situation to be under the same laws being a stoop under specific regulations. He noted that the Building Commissioner has said that he is okay with this plan and would approve, in the future other bulkheads not coming under the same requirements as a foundation, pool etc.

Ms. Trant noted that they expect to begin construction after labor Day, possibly mid-October. They have ample room for the construction vehicles to be on the lot.

Mr. Sullivan asked for Public Comments.

Jim Mullen of Patricia Lane expressed his support for the project.

Mr. Sullivan addressed the staff report from Ms. Lohr and confirmed additional documents.

Mr. August pointed out that the south side setback should say eleven feet, not nine.

Mr. Sullivan requested that Atty. Rose ask the architect to submit a plan showing eleven feet and submit it to Ms. Lohr, which she agreed to do.

Mr. Dickson noted that the Findings of Fact do say eleven feet, which means the plans do not have to be redone.

Mr. Sullivan listed the recommended conditions.

Ms. Sullivan moved to accept the documents, Findings of Fact and conditions as stipulated. Seconded by Mr. Donoghue.

Vote: 5:0 in favor. Motion carried.

Mr. August moved to close the Public Hearing. Seconded by Mr. Murphy.

Vote: 5:0 in favor Motion carried.

Mr. Sullivan noted those voting: Al Donoghue, Brian Sullivan, Chris Murphy, John August and Ken Dickson.

Mr. Donoghue moved to close the discussion. Seconded by Mr. August.

Vote: 5:0 in favor Motion carried.

Mr. Donoghue moved on Case No. 2025-26, Daniel J Trant Trs Al Margaret E Trant Trs. c/o Marian Rose, Esq., PO Box 67, Dennis Port, MA 02639 owner of the property located at 16 Patricia Ln, Assessors' Map 5, Parcel D2-16, in the RH-1 Zoning District. The Applicant has been granted a Special Permit from S325-54 (A)(5) "nonconforming structures and uses", S325-Attachment 2, Table 2, Area Regulations to raze and replace their pre-existing non-conforming single-family, non-conforming dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL 40A Section 6. Granting is consistent with the Gale and related cases as there will be an intensification of one or more existing non-conformities, no new non-conformities and no substantial detriment to the entire neighborhood on a pre-existing non-conforming lot and the proposed structure will not create additional negative impacts with respect to traffic, noise, odor or congestion. Any relief not expressly granted hereunto is expressly denied. All work shall be performed in accordance with the plans submitted with the application. Said grant and approval are subject to the following conditions: During the life of the project, there will be no demolition, exterior construction or new landscaping between June 30 and Labor Day of any year. For the life of the approved project, all construction vehicles will be parked on the applicant's property and not in any public street or road. The approval of the project by the Harwich Health Department will be required and a licensed septic installer must apply for a permit prior to the building permit sign-off. Violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL Chapter 40A Section 7 and of the Harwich Zoning By-laws as they may be amended from time to time. Seconded.

Vote: 5:0 in favor Motion carried.

Case No. 2025-27, Caren, Hazart-Roshan % Niall Hopkins 3112 Paddocks Path, Dennis, MA 02638, owner of the property located at **20 Connecticut Ave., Assessors' Map 117, Parcel X1-103**, in the RR Zoning District. The Applicant seeks a variance from S325-52 "Variances", S325-54 A(1)(a)"nonconforming Structures and Uses" and S325-Attachment 2, Table 2, Area Regulations, to construct an attachment garage on a single-family dwelling, pursuant to the Harwich Zoning By-laws S325-52 and MGL Chapter 40A Section 10.

Mr. Donoghue read Case No. 2025-27 as presented. He stated that the Harwich Board of Health submitted comments indicating that a licensed septic installer must inspect the system and submit their report prior to the building permit sign-off. The Historic Commission, Highway Department and Police Department submitted comments indicating that they had no concerns. No other comments from other Town Departments or abutters were received.

Mr. Sullivan asked that the applicant or representative introduce themselves.

Attorney Niall Hopkins was present and representing the applicant, Caren Hazart-Roshan. Also present was Atty. Hopkins' son Shamus.

Atty. Hopkins explained the request and described the proposed project. He noted that there would be no detriments to the neighborhood, and there is no change to the house.

Mr. Sullivan explained the requirements for a Variance. He also noted that other buildings in the neighborhood have similar setbacks to what is being proposed. Mr. Sullivan stated that the Board should not be approving a new non-conformity, unless it is based on a Variance that is based on the requirements. Mr. Sullivan explained the research that he had done and the input from Ms. Lohr and the Building Inspector, which questioned if the neighborhood was once a flexible cluster. He referred to Zoning By-law 325-101 and a subdivision plan dated June 1962 which he described. Mr. Sullivan noted that the Building Inspector suggested that the applicant review the original deed and original subdivision plan. The applicant will also need to request records from the Planning Department as well as a land court surveyor to prove that the property is part of a cluster development.

Ms. Lohr clarified what documents the applicant would have to present to the Building Department and Building Commissioner.

Board members commented that they agreed with Mr. Sullivan's suggestion to continue the Hearing for the applicant to gather the necessary information. It was also noted that the applicant may not have to appear before the ZBA again.

Atty. Hopkins requested a continuance.

Mr. Sullivan asked that Atty. Hopkins sign a document which will allow a continuance up to 180 days.

Mr. Sullivan moved to continue Case No. 2025-27 until July 30, 2025. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-28, Patrice M Soule, 16 Earle Terrace, West Harwich, MA 02671, owner of the property located at **16 Terrace., Assessors' Map 12, Parcel N1-27**, in the RH-1 Zoning District. The Applicant seeks a Special Permit from S325-54 a(4) & (5) "non-conforming structure and Uses and S325 - Attachment 2, Table 2, Area Regulations, to construct an addition on a pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40A Section 6.

Mr. Donoghue read Case No. 2025-28 as presented. The Harwich Board of Health submitted comments indicating that a licensed septic installer must inspect the system and submit their report prior to the building permit sign-off. The Historic Commission, Highway Department and Police Department submitted comments indicating that they had no concerns.

The applicant, Patrice Soule was present and described the proposed project in detail.

Mr. Sullivan read a letter submitted by an abutter with a question regarding the moving of a shed. He commented that if the shed has been there a certain amount of time, it can remain where it is.

Ms. Soule replied to the request, noting that she is not required to take the shed down and she will have a discussion with the abutters about taking it down. She noted that she would like to begin the project on October 1st. There is room on her property for the construction vehicles.

Mr. Sullivan confirmed the list of required documents and noted recommended conditions.

Mr. August moved to accept the documents, findings of fact and conditions of approval as stipulated. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Mr. August moved to close the Public Hearing. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried

Mr. Sullivan noted members assigned to voting: Al Donoghue, Brian Sullivan, Chris Murphy, John August and Kenneth Dickson.

Mr. Donoghue moved to close the discussion. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved, Case No. 2025-28, Patrice M Soule, 16 Earle Terrace, West Harwich, MA 02671, owner of the property located at 16 Terrace., Assessors' Map 12, Parcel N1-27, in the RH-1 Zoning District. The Applicant has been granted a Special Permit from S325-54 a(4)

& (5) “non-conforming structure and Uses and S325 - Attachment 2, Table 2, Area Regulations, to construct an addition on a pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40A Section 6. Granting is consistent with the Gale and related cases as there will be an intensification of one or more existing non-conformities, no new non-conforming and no substantial detriment to the entire neighborhood on a pre-existing non-conforming lot and the proposed structure will not create additional negative impacts with respect to traffic, noise, odor or congestion. Any relief not expressly granted hereunto is hereby denied. All work shall be performed in accordance with the plans submitted with the application. Said grant and approval are subject to the following conditions: During the life of the project, there will be no demolition, exterior construction or new landscaping between June 30 and Labor Day of any year. For the life of the approved project, all construction vehicles will be parked on the applicant’s property and not in any public street or road. The approval of the project by the Harwich Health Department will be required and a licensed septic installer must submit a report and apply for a permit prior to the building permit sign-off. Violation of the terms and conditions of this Special permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL Chapter 40A Section 7 and of the Harwich Zoning By-laws as they may be amended from time to time. Seconded by Mr. August.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-29, Capey Diem, LLC, % William Crowell, Esq. & Michael Donovan Esq., 466 Main Street, PO Box 185, Harwich Port, MA 02646, owner of the property located at 12 Sea Way, Assessors’ Map 2, Parcel A1-65, in the RH-1 Zoning District. They Applicant seeks a Special Permit or in the alternative a Variance from S325-54(A) “non-conforming structures and Uses” and S325-Attachment 2, Table 2, Area Regulations and S325-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 S325-52 & 54 and MGL Chapter 40A Section 6 & 10

Mr. Donoghue read Case No. 2025-29 as presented. The Harwich Board of Health submitted comments stating that the Title 5 report is necessary as (*inaudible due to background noise for a few seconds) all risers and inspection port must be brought to six inches of finish grade. The Conservation Department submitted comments stating that the proposed work crosses into an AE flood plane and the proposed project will need to go before the Conservation Commission. The Historic Commission, Highway Department and Police Department submitted comments indicating that they had no concerns. Two letters of support of the project were received from John and Donna Donovan and Elaine Monahan. No other comments from Town Departments or abutters were received.

Mr. Sullivan asked the applicant and representatives to introduce themselves.

Attorney Michael Donovan was present and representing the applicants, Don and Beth Larson who were also present. Atty. Donovan described the property and the proposed plan in detail. He noted and described a last-minute change to the proposed plan and distributed updated documents to Board members. He noted and described the two non-conformities and the reasons for a Special Permit. Atty. Donovan also noted the bulkhead/stoop and setbacks.

Mr. Sullivan noted that the Building Commissioner would consider a bulkhead scenario as coming under the stoop requirements. However, full stairs and stairwells do not come under the stoop interpretation.

Atty. Donovan clarified that they are seeking a Special Permit, noting why and the specifics. The applicants would like to start the project in the fall and have space for the construction vehicles on site.

Mr. Sullivan noted the application hearing documents.

Atty. Donovan noted that the new site plan from Clark Engineering had a revision date of June 24th and the architectural and elevation plan revision date is June 25th.

Mr. Sullivan noted the recommended conditions.

Mr. Sullivan moved to approve the documents, findings of fact and conditions of approval as stipulated. Seconded by Mr. August.

Vote: 5:0 in favor. Motion carried.

Mr. August moved to close the public hearing. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Mr. Sullivan noted the assigned voters: Al Donoghue, Brian Sullivan, Chris Murphy, John August and Kenneth Dickson.

Mr. August moved to close the discussion. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved, on Case 2025-29 Capey Diem, LLC, % William Crowell, Esq. & Michael Donovan Esq., 466 Main Street, PO Box 185, Harwich Port, MA 02646, owner of the property located at 12 Sea Way, Assessors' Map 2, Parcel A1-65, in the RH-1 Zoning District. The Applicant is granted a Special Permit from S325-54(A) "non-conforming structures and Uses" and S325-Attachment 2, Table 2, Area Regulations and S325-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 S325-52 & 54 and MGL Chapter 40A Section 6 & 10. Granting is consistent with the Gale and related cases as there will be an intensification of one or more existing non-conformities, no new non-conforming and no substantial detriment to the entire neighborhood on a pre-existing non-conforming lot and the proposed structure will not create additional negative impacts with respect to traffic, noise, odor or congestion. Any relief not expressly granted hereunto is hereby denied. All work shall be performed in accordance with the plans submitted with the application. Said grant and approval are subject to the following conditions: During the life of the project, there will be no demolition, exterior

construction or new landscaping between June 30 and Labor Day of any year. For the life of the approved project, all construction vehicles will be parked on the applicant's property and not in any public street or road. The approval of the project by the Harwich Health Department, the Conservation Commission and Department will be required prior to the building permit sign-off. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL C40A s7 and the Harwich Zoning By-laws as these may be amended from time to time. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-30, Paul K Wilkinson & Alyse B Wilkinson % Paul Muldoon 693 Main St. Chatham, MA 02633, owner of the property located at 18 Edgewood Rd Assessors' Map 6, Parcel E1-9, in the RH-1 Zoning District. The Applicant seeks a Special permit from S325-54(A) "non-conforming structures and Uses" and S325-Attachment 2, Tablet 2, Area Regulations to raze and replace their pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40-A Section 6.

Mr. Donoghue read Case No. 2025-30 as presented. The Harwich Board of Health submitted comments stating that the setback to the septic must be maintained and the deck cannot cover the septic components. The Historic Commission, Highway Department and Police Department submitted comments indicating no concerns. No comments from any other Town Departments or abutters were received.

Mr. Sullivan asked the applicant and representatives to introduce themselves.

Paul Muldoon from SV Design was present and representing the applicants. Both Paul and Alyse Wilkinson participated remotely. Mr. Muldoon described the proposed project in detail. He also noted why a Special Permit is needed and that the applicant fulfills the requirements. Work would begin after Labor Day, and they have room for the construction equipment.

Mr. August noted that the plan is not an intensification of a non-conformity.

Ms. Lohr noted that in the By-law, if there is an increase in the height of a structure within the setback, it is considered an intensification.

Mr. Sullivan reviewed the application documents and recommended conditions.

Mr. Sullivan moved to accept the documents, findings of facts and conditions of approval as stipulated. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Mr. Murphy moved to close the public hearing, Seconded by Mr. Donoghue.

Vote: 5:0 in favor. Motion carried.

Mr. Sullivan assigned voting for the case; Al Donoghue, Brian Sullivan, Chris Murphy, John August and Ken Dickson.

Mr. August moved to close the discussion. Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Mr. Donoghue moved, Case No. 2025-30, Paul K Wilkinson & Alyse B Wilkinson % Paul Muldoon 693 Main St. Chatham, MA 02633, owner of the property located at 18 Edgewood Rd Assessors' Map 6, Parcel E1-9, in the RH-1 Zoning District. The Applicant has been granted a Special Permit from S325-54(A) "non-conforming structures and Uses" and S325-Attachment 2, Tablet 2, Area Regulations to raze and replace their pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws S325-54 and MGL Chapter 40-A Section 6. Granting is consistent with the Gale and related cases as there will be an intensification of one or more existing non-conformities, no new non-conforming and no substantial detriment to the entire neighborhood on a pre-existing non-conforming lot and the proposed structure will not create additional negative impacts with respect to traffic, noise, odor or congestion. Any relief not expressly granted hereunto is hereby denied. All work shall be performed in accordance with the plans submitted with the application. Said grant and approval are subject to the following conditions: During the life of the project, there will be no demolition, exterior construction or new landscaping between June 30 and Labor Day of any year. For the life of the approved project, all construction vehicles will be parked on the applicant's property and not in any public street or road. Subject to the approval of the Harwich Health Department before sign-off on the building permit. A violation of the terms and conditions of this Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL C40A s7 and the Harwich Zoning By-laws as these may be amended from time to time. Seconded by Mr. August.

Vote: 5:0 in favor. Motion carried.

Mr. Dickson questioned why the ZBA adds conditions when applicants are required to go before the Board of Health and the Conservation Commission.

Mr. Sullivan replied that the ZBA has always done it that way. He will follow up.

Ms. Lohr commented that building permits are not approved until all the departments sign-off as part of the review process. She does not feel the conditions are necessary.

Mr. Sullivan commented that he will make the changes.

III. APPROVAL OF MINUTES

A. May 28, 2025 Meeting Minutes

Mr. Donoghue moved to approve the minutes of May 28, 2025. Seconded by Mr. Murphy.

Vote: 3:0:2 with Mr. August and Mr. Dickson abstained. Motion carried.

IV. NEW BUSINESS

A. Discussion and vote to reorganize the Board

Mr. Dickson nominated Mr. Sullivan to continue as Chair for another year. Seconded by Mr. August.

Vote: 5:0 in favor. Motion carried.

Mr. Sullivan nominated Mr. Donoghue to continue as Clerk for another year. Seconded by Mr. August.

Vote: 5:0 in favor. Motion carried.

Ms. Lohr noted that this is her last meeting before her maternity leave. She has trained an office assistant to do the clerical Board work. Amy Kwesell will be writing the decisions.

Mr. Sullivan noted that he will be doing the staff reports. He also noted that Amy Kwesell will be emailing information regarding the 40B process and what the Board members can and cannot discuss outside of a 40B meeting. He suggested that Board members start to write questions about the process that can be forwarded to Christine Flynn, Town Planner.

Ms. Lohr commented that her understanding was that the Board members should ask questions at a meeting.

Mr. Sullivan noted that he has asked the Town's attorney for clarification.

V. OLD BUSINESS

VI. CORRESPONDENCE

VII. ADJOURN

Mr. Sullivan moved to adjourn at 9:41PM. Seconded by Mr. Murphy.

Vote: 5:0 in favor.

Respectfully submitted,

Judi Moldstad
Board Secretary

