

**MINUTES
TOWN OF HARWICH
ZONING BOARD of APPEALS
6:30PM WEDNESDAY, SEPTEMBER 24, 2025
TOWN HALL – GRIFFIN ROOM**

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

MEMBER NOT PARTICIPATING: David Nunnally

ALSO PARTICIPATING: Lisa Shaw, Executive Assistant and Christine Flynn, Town Planner

I. CALL TO ORDER; RECORDING NOTICE

Mr. Sullivan called the meeting of the Harwich Zoning Board of Appeals to order at 6:30PM on Wednesday, September 24, 2025, noted the purpose of the meeting and read the Recording Notice.

Board members introduced themselves for the record.

II. PUBLIC HEARINGS

Case No. 2025-45, Louis and Lisa Lanzillo, c/o Stenbeck & Taylor, Inc., 844 Webster Street, Marshfield, MA 02050, owners of the property located at 15 Trinity Cove Road, Assessors 'Map 1, Parcel E1-3, in the RL Zoning District. The Applicant seeks a Special Permit from §325-54 "non-conforming structures and uses" A (2) (c), to reconstruct a deck on a pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 6.

Mr. Donoghue read Case No. 2025-45 as presented and noted that the Harwich Health Department commented that the property is currently served by a cesspool. A licensed septic installer must apply for a septic permit, prior to the building permit sign-off. The Harwich Water, Police and Highway Departments and Historic Commission submitted comments indicating they had no concerns. The Conservation Department commented that the applicant has gotten approval for a deck, driveway and plantings. Mr. Donoghue referred to and read a letter from Peter Baron, an abutter, who had no objections to the application. No other comments from the Town or abutters was received.

A representative from Stenbeck & Taylor, Inc. had been participating remotely however, when they were called, they had exited the meeting.

Mr. Sullivan moved to continue this case until the end of the meeting. Seconded by Mr. Murphy.

Vote: 6:0 in favor. Motion carried. Case continued.

Case No. 2025-45 was called after Case No. 2025-47.

Mr. Donoghue called Case No. 2025-47 as presented. The Harwich Health Department commented that the property is currently served by a cesspool. A licensed septic installer must apply for a septic permit, prior to the

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building permit sign-off. Harwich Water, Police and Highways Departments and Historic Commission submitted comments indicating they had no concerns.

Mr. Sullivan noted that the applicants had gotten approval for a deck, driveway and plantings. A letter had been received by Peter Baron who was in favor of the application. No other comments from other Town Departments or abutters had been received.

Noah White of Stenbeck & Taylor, representing the applicant, participated remotely. He described the proposed project in detail. He noted that the statement regarding the cesspool was incorrect and gave information pertaining to a new septic system.

Mr. Sullivan reviewed and confirmed the application and hearing documents. He referred to the Findings of Facts. A correction was noted for line 2, that 15 should be 5 as well as a few spelling corrections.

Mr. Sullivan moved to approve the application and documents included as well as approve the recommended findings and conditions based upon documents submitted to the State with the correction and grammar and the actual number of Trinity Cove Road. Seconded by Mr. Dickson.

Vote: 6:0 in favor. Motion carried.

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

Vote: 6:0 in favor. Motion carried.

Mr. Sullivan noted those voting on this case: Mr. Donoghue, Mr. Murphy, Mr. August, Mr. Dickson and Ms. Raatz.

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

Vote: 6:0 in favor. Motion carried.

Mr. Donoghue moved on Case No. 2025-45 Louis and Lisa Lanzillo, c/o Stenbeck & Taylor, Inc., 844 Webster Street, Marshfield, MA 02050, owners of the property located at 15 Trinity Cove Road, Assessors 'Map 1, Parcel E1-3, in the RL Zoning District. The Applicant has been granted a Special Permit from §325-54 "non-conforming structures and uses" A (2) (c), to reconstruct a deck on a pre-existing non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-54 and MGL Chapter 40A Section 6. The granting is consistent with the Gale and related cases, 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 proposed structure will not create any additional negative impacts with respect to traffic, noise, odor and congestion. Any relief not explicitly granted here is hereby denied. All work shall be performed in accordance with the plan submitted. This application and said grant approval is subject to the following conditions:

1. A violation of the special terms and conditions of the Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL Chapter 40A section 7 in 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. 2025-46, Christopher Caile, c/o William Crowell Esq. & Michael Donovan Esq., 466 Main Street., P.O. Box 185, Harwich Port, MA 02646, owner of the property located at 6 Fernwood Circle, Assessors' Map 51, Parcel R3-32, in the MLR-1 Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54(A) "Non-conforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, and §325 - Attachment 3, Table 3, Height and Bulk Regulations, to replace an existing sunroom with a minimally larger screened-in porch and extend the existing open air deck to connect it to the new screened-in porch on a pre-existing, non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-52 & 54 and MGL Chapter 40A Section 6 & 10.

Mr. Donoghue read Case No. 2025-046 as presented.

Mr. Sullivan noted that the Harwich Health Department commented that the property is currently served by a cesspool which is non-compliant. A screened in porch is the minimal work that can be proposed. Should the system become a threat to public health, it shall be upgraded. Harwich Water, Police and Highway Departments and Historic Commission submitted comments indicating they had no concerns. No other comments from Town Departments or abutters was received.

Michael Donovan of Crowell and Donovan Law in Harwich Port, was present and representing the applicant who was also present. Attorney Donovan described the proposed plan in detail. He noted that this is a proper case for the application of the Gale case and issuance of a Special Permit.

Board members did not have questions and there were no comments from the public.

Mr. Sullivan reviewed the case related documentation and confirmed that it was complete. There was one address correction in the Finding of Facts, also a correct of wording in #11. Mr. Sullivan read the general list of conditions.

Mr. Sullivan moved that the Board approve the hearing documents as shown and approve the recommended Findings with the corrections as amended. Seconded by Mr. August.

Vote: 6:0 in favor. Motion carried.

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

Vote: 6:0 in favor. Motion carried.

Mr. Sullivan noted those voting on this case: Mr. Donoghue, Mr. Murphy, Mr. August, Mr. Dickson and Ms. Raatz.

Mr. Dickson moved to close the discussion. Seconded by Ms. Raatz.

Vote: 6:0 in favor. Motion carried.

Mr. Donoghue moved that Christopher Caile, c/o William Crowell Esq. & Michael Donovan has been granted a Special Permit for non-conforming Structures and Uses", Attachment 2, Table 2, Area Regulations, and §325 - Attachment 3, Table 3, Height and Bulk Regulations, to replace an existing sunroom with a minimally larger screened-in porch and extend the existing open air deck to connect it to the new screened-in porch on a pre-existing, non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws s325-52 & 54 and MGL Chapter 40A Section 6 & 10. The granting is consistent with the Gale and related cases, 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 proposed structure will not create any additional negative impacts with respect to traffic, noise, odor and congestion. Any relief not explicitly granted here is hereby denied. All work shall be performed in accordance with the plan submitted. This application and said grant approval is subject to the following conditions:

- 1 For the life of the approved project, all construction vehicles shall be parked on the applicant's property and not on any street or road.
2. A violation of the special terms and conditions of the Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL Chapter 40A section 7 in the Harwich Zoning By-laws as these may be amended from time to time.

Seconded by Mr. Dickson.

Vote: 5:0 in favor. Motion carried.

Case No. 2025-47, Capey Diem, LLC, c/o William Crowell Esq. & Michael Donovan Esq., 466 Main Street., P.O. Box 185, Harwich Port, MA 02646, owner of the property located at 12 Sea Way, Assessors 'Map , Parcel A1-65, in the RH-1 Zoning District. The Applicant seeks a Special Permit or in the alternative a Variance from §325-54(A) "Non-conforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, and §325 - Attachment 3, Table 3, Height and Bulk Regulations, to construct a bump out bay addition on the 1st and 2nd floor and to flip the stairs on the outdoor stairwell to the basement from the south side to the north side on a pre-existing, non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-52 & 54 and MGL Chapter 40A Section 6 &10. 2 of 3

Mr. Donoghue read Case No. 2025-47 as presented. The Harwich Health Department commented that the title 5 report discovered minor repairs necessary. All risers and inspection port must be brought 6 inches above the finished grade. Harwich Water, Police, Highway Department, Historic Commission submitted comments indicating they had no concerns. Conservation Department commented that any work in the flood plane, would require approval. No comments from the other Town Departments were received.

Attorney Michael Donovan from Crowell and Donovan Law was present. He noted that the applicants were hoping to participate remotely but had not joined the meeting. He gave a brief overview of a previously issued Special Permit to raze and replace the applicant's house and noted a change which the Building Commissioner had stated, requires their application to go before the ZBA. He described the changes to the original plan in detail. He also noted that he is waiting for the Town's Legal counsel's response regarding this change needing to come before the ZBA.

Mr. Sullivan explained why any change is required to go before the ZBA at this time.

Mr. Sullivan reviewed the case related documentation and confirmed that it was complete.

Atty. Donovan noted a date change to the last revision of the plan submitted.

Mr. Sullivan confirmed agreement on all three conditions.

Mr. Sullivan moved to accept the documents, Findings of Facts and conditions as stipulated. Seconded by Mr. Dickson.

Vote: 6:0 in favor. Motion carried.

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

Vote: 6:0 in favor Motion carried

Mr. Sullivan noted those voting on this case: Mr. Donoghue, Mr. Murphy, Mr. August, Mr. Dickson and Ms. Raatz.

Mr. Dickson moved to close the discussion. Seconded by Ms. Raatz.

Vote: 6:0 in favor. Motion carried.

Atty. Donovan noted that the owners are the two Trusts that are listed.

Mr. Donoghue moved on Case No. 2025-47, Donald F. Larson and Elizabeth S. Larson, Trustees of the Donald F. Larson Revocable Trust and the Elizabeth S. Larson Revocable Trust U/D/T dated June 29, 2005 have been granted a Special Permit from §325-54(A) "Non-conforming Structures and Uses", and §325 – Attachment 2, Table 2, Area Regulations, and §325 - Attachment 3, Table 3, Height and Bulk Regulations, to construct a bump out bay addition on the 1st and 2nd floor and to flip the stairs on the outdoor stairwell to the basement from the south side to the north side on a pre-existing, non-conforming single-family dwelling, pursuant to the Harwich Zoning By-laws §325-52 & 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-conformity and no substantial detriment to the entire neighborhood on a pre-existing non-conforming lot and as proposed structure will not create any additional negative impacts with respect to traffic, noise, odor and congestion. Any relief not explicitly granted here is hereby denied. All work shall be performed in accordance with the plan submitted. This application and said grant approval is subject to the following conditions:

1. For the life of the approved project, there will be no demolition, no construction and no new landscaping between June 30 and Labor Day of any year.
2. For the life of the project all construction vehicles shall be parked on the applicant's property and not on any street or road.

A violation of the special terms and conditions of the Special Permit may be enforced as a violation of the Harwich Zoning By-laws pursuant to MGL Chapter 40A section 7 in 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.

At this time Mr. Sullivan recognized a representative from Stenbeck & Taylor and asked that he be unmuted. Case No. 2025-45 was called.

Case No. 2025-44, Town of Harwich, c/o Anthony Schiavi, 732 Main Street, Harwich, MA 02645, owner of the property located at 15 Wales Road, Assessors 'Map 73, Parcel F1-78, in the RR Zoning District. The Applicant seeks a Variance from §325 – Attachment 2, Table 2, Area Regulations, to construct the Town of Harwich Phase 3A, Great Sand Lakes Sewer extension project on a pre-existing non-conforming lot, pursuant to the Harwich Zoning By-laws §325-52 and MGL Chapter 40A Section 10.

Mr. Donoghue read Case No. 2025-44 as presented. The Harwich Highway, Health, Water and Police Departments submitted comments indicating no concerns. A letter was submitted by Christine Morrison outlaying questions on the appearance of the municipal pumping station.

Mr. Sullivan read the letter from Ms. Morrison, an abutter, which was addressed to Lisa Shaw. He noted the questions in the letter and provided a copy for Mr. Schiavi.

Anthony Schiavi, Interim Town Administrator introduced Brandon Noakowski from GHD and Amy Kwesell, Town Counsel. He also noted that Elizabeth Cheeseman from GHD was participating remotely. Mr. Schiavi described the application.

Mr. Noakowski described Phase 3A and the municipal pumping station in detail.

Ms. Cheeseman provided slides which she described in detail. Board members and Mr. Schiavi asked questions which Ms. Cheeseman answered.

Mr. Sullivan noted that a condition on this case will be to get approval from the Select Board due to the accessory building and/or part of the structure being in the Town's right of way.

Atty. Kwesell stated that it is a Town structure in the Town's right of way and no approval is required. She requested that condition #17 be deleted.

Members asked questions regarding the site and leaving as many trees as possible.

Selene Federisi, an abutter to the property asked questions regarding the project which were answered by Mr. Schiavi, Ms. Cheeseman and Mr. Noakowski.

Mr. Sullivan reviewed all pertaining documents, Findings of Facts and conditions with the elimination of item #17.

Mr. Schiavi noted a date correction.

Mr. Sullivan moved to accept the documents, Findings of Facts and the Conditions of Approval as stipulated. Seconded by Mr. Murphy.

Vote: 6:0 in favor. Motion carried.

Mr. Dickson moved to close the public hearing, Seconded by Ms. Raatz.

Vote: 6:0 in favor. Motion carried.

Mr. Sullivan noted those voting on this case: Mr. Donoghue, Mr. Murphy, Mr. August, Mr. Dickson and Ms. Raatz.

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

Vote: 6:0 in favor. Motion carried.

Mr. Donoghue moved, on Case No. 2025-44 Town of Harwich, c/o Anthony Schiavi, 732 Main Street, Harwich, MA 02645, owner of the property located at 15 Wales Road, Assessors 'Map 73, Parcel F1-78, in the RR. The Applicant is granted a Variance from §325 – Attachment 2, Table 2, Area Regulations 325-18G additional regulation setbacks, regulations for accessory structure for Municipal owned sewer pumping station pursuant to the Harwich Zoning By-laws §325-52 and MGL Chapter 40A Section 10. Failure of the Board to make this grant will result in substantial hardship to the applicant, the Town of Harwich. The Board further

finds that condition is specific to this property and does not generally affect the entire district. There will be no substantial detriment to the public good by granting the variance and its granting will nullify the substantial degrade from the intent and purpose of the By-law. All work shall be performed in accordance with the plans. The said plan and grant are subject to the following conditions: A violation of the terms and conditions of the variance may be enforced as a violation of the Harwich Zoning By-law pursuant to GL Chapter 49A section 7 and the Harwich Zoning By-law as they may be amended from time to time. Seconded by Mr. Murphy.

Vote: 5:0 in favor. Motion carried.

Mr. Sullivan moved to change the Agenda to address other items prior to the next case. Motion approved.

Case No. 2025-21, Queen Anne Acres LLC, and Mid Cape Church Homes, Inc., d/b/a Pine Oaks Village Homes, P.O Box 1305, Harwich, MA 02645, has made an application for a Comprehensive Permit pursuant to MGL Chapter 40B Sections 20-23 and 760CMR 56.00, to construct 5 corridor buildings and five townhouse buildings consisting of 242 rental units. The property is located at, 0 Queen Anne Rd Map:57 Parcel: C5, 55 Queen Anne Rd Map: 57 Parcel: C2, 57 Queen Anne Rd Map: 57 Parcel: C3, 0 Queen Anne Rd Map: 57 Parcel: C6, 99 Queen Anne Rd Map: 57 Parcel: H1, 0 Queen Anne Rd Map: 57 Parcel: H3, 0 Annasis Rd Map: 57 Parcel: H2, 0 Main St Map: 46 Parcel: M-10, 0 Main St Map: 47 Parcel: C1-4, 324 Main St Map: 47 Parcel: B1 and B1-0 and, and a Parcel that Fronts Queen Anne Road, according to the Town's GIS, the parcel is surrounded by the following: - Easterly direction abuts parcels 57C2, 57C3, and 57 C5 - Westerly direction abuts parcel 53 X3, 53 X3-A, 56 X2-3, and 56 X2-4, - Southerly direction abuts 56-W6. Located in the RL Zoning District. (Continued from the September 17, 2025 meeting at the 204 Cultural Arts Municipal Building)

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

A. Board discussion in review of CPA hearing status, topics remaining and organizing review of requested waivers

Mr. Sullivan noted that the Board would be reviewing current issues and main topics as well as discussing what is to be done moving forward.

Mr. Sullivan read a letter from the applicant confirming that the applicant has agreed to extend the 180 day time period within which the public hearing is to be closed, from October 21, 2025 to November 20, 2025.

Mr. Sullivan began the discussion with the Board regarding what subjects have been completed and whether or not each needs further discussion. Atty. Kwesell and Ms. Flynn were also part of the conversation, offered opinions and suggestions as well as answered questions. Also discussed was possibly dedicating a meeting to the subject of the waivers. Mr. Sullivan noted that he will request an update from the applicant regarding the list of waivers being requested. He also noted that a meeting will be scheduled next week to begin reviewing the recommendations from VHB and other peer group companies, to create a list of conditions. He suggested that, after Atty. Kwesell's approval, the list be forwarded to the applicant.

Atty. Kwesell gave an overview of the timeline going forward and made suggestions for meetings and stated that more time will be needed for the discussion regarding conditions. She suggested that the Board wait until October 14th to decide if the Board is going to have the applicant weigh in on potential conditions.

The Board reviewed the list and discussed each specific condition with Atty. Kwesell and Ms. Flynn. The conversation also included which issues are regulated by the State and which can be conditioned by the Town. The was discussion on GHB's recommendations and issues regarding the site that still need to be addressed.

Atty. Kwesell commented that having hearings scheduled on two consecutive nights may not be productive. She commented that with that schedule, they will need to go into November.

Mr. Sullivan noted that one of the meetings, either on October 14th or 15th would be dedicated to waivers and conditions. He and another member of the Board will review the applicant's response to the site plan issues with Ms. Flynn prior to the meeting.

Members discussed that they cannot condition issues that are under the control of another entity.

Mr. Sullivan made recommendations regarding the lists of conditions.

Atty. Kwessel responded that if that is what the Board would like to do, they need to build in quite a bit more time. She offered alternatives which can be decided once the Board has all of the evidence on November 20th. She offered to supply examples of other similar 40B's for the Board to use as a comparison. Atty. Kwesell also suggested that the Board wait until the 14th to decide if they want the applicant to weigh in on potential conditions.

Mr. Sullivan summarized next steps based on the previous discussions.

III. APPROVAL OF MINUTES

A. August 27, 2025 Meeting Minutes

Mr. Dickson moved to approve the August 27, 2025 Meeting Minutes. Seconded by Mr. Murphy.

Vote: 6:0 in favor. Motion carried.

IV. NEW BUSINESS

V. OLD BUSINESS

Discussion on recommended Zoning Changes

Mr. Dickson referred to the changes suggested by Board members. He noted his responsibility regarding creating a compilation of the suggested changes. He also gave an overview of the time frame going forward.

Christine Flynn, Town Planner noted that she has been working with Administration to create a working committee.

Mr. Sullivan shared a conversation he had with the Building Commissioner, noted what had been approved by the past Building Commissioner, types of cases that had come before the ZBA and others that had not.

Atty. Kwesell answered questions from Board members regarding specific situations such as bulkhead stairs.

Ms. Raatz exited the meeting at 9:15PM.

VI. CORRESPONDENCE/BRIEFINGS

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VII. ADJOURN

Mr. Sullivan moved to adjourn.

Vote: 6:0 in favor. Motion carried. Meeting adjourned at 9:23PM.

Mr. Sullivan reopened the meeting at 9:25PM.

Mr. Sullivan announced that the next two Pine Oaks Village IV meetings are scheduled for October 14, 2025 and October 15, 2025. Both meetings will be held at 6:30PM at the 204 Cultural Arts Municipal Building.

Mr. Sullivan adjourned the meeting at 9:27PM.

Respectfully submitted,

Judi Moldstad
Board Secretary

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