

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
DECEMBER 12, 2018
APPROVED: JANUARY 9, 2019**

Chairman Chris Tracey called the meeting to order at 7:02pm in the Town Hall Meeting Room, 13 Ayer Road, under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

Others Present: Liz Allard (LUB Admin), Rhonda Sprague (Harvard Realty), Whit Sprague, Patrick Larkin, Michael Larkin, Dan Wolfe (Ross Assoc.), Ken Van Wormer, Michael Leahy, Jessica Piper Leahy and Jim Piper

Continuation of a Special Permit Hearing – Larkin Real Estate Group, 62 Old Littleton Road. Opened at 7:03pm (see page 2 for complete details)

Special Permit Hearing – Jessica Piper Leahy, 19 Mill Road. Opened at 7:36pm (see page 4 for complete details)

Approve Minutes

Steve Moeser made a motion to approve the minutes of November 14, 2018. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

At 8:15pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

Zoning Board of Appeals

Continuation of a Special Permit Hearing Meeting Minutes

Larkin Real Estate Group, 62 Old Littleton Road

December 12, 2018

The hearing was opened at 7:03pm by Chairman Chris Tracey in the Town Hall Meeting Room, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-3.

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant and Orville Dodson

Others Present: Liz Allard (LUB Admin) Rhonda Sprague (Harvard Realty), Whit Sprague, Patrick Larkin, Michael Larkin and Ken Van Wormer

This hearing was continued from November 14, 2018 for a Special Permit filed on behalf of Larkin Real Estate Group, Inc., for the demolition and reconstruction of two pre-existing non-conforming structures at 62 Old Littleton Road, Harvard.

Advice received from Town Counsel had indicated the Board is unable to allow the project by Special Permit and/or a Section 6 Finding under Mass General Law Chapter 40A.

Attorney Michael Larkin, representation for the applicant, stated the two structures on the property were built in 1954 as single-family residence, which is an allowed use. The proposal to demo the two existing structures and re-build two new structures maintains the underlying use as a single-family residential use. Attorney Larkin stated the dwellings were never used as residences at the same time. Attorney Larkin stated the non-conforming use of a business in the smaller dwelling (House B) can never be re-established. Chris Tracey asked if the smaller house (House B) was ever occupied after the larger house (House A) was constructed and moved into. Ken Van Wormer, the current property owner, explained he should have never given up the non-conforming use, but was forced to do so in the 90's when the need for a new septic system came about due to the misuse of the system by the tenant at the time.

Theodore Maxant stated he always sympathizes with an applicant if they are being unfairly taxed, but his review of the records indicates the Town has been assessing the two buildings in the amount of \$55,000; the Town has granted a big tax advantage by not recognizing the structures as two separate houses. Mr. Van Wormer spoke as to the condition of the structures and how he had been told they were tear downs. When asked, Mr. Van Wormer confirmed there was a business in the small building until 1993.

Whit Sprague noted in 1999 his son purchased a lot in Harvard with two houses; in 2004 a special permit was issued from ZBA to reconstruct those dwellings.

After a long discussion and several questions the Board was able to conclude the following:

- Between 1950-1985 the smaller house was used as a business
- At no time were both structures, at the same time, uses as single-family residences
- The larger house (House A) was rented until about 2008

A straw poll of the members indicated the Board would not vote unanimously in favor of this Special Permit. With another hearing to open, Attorney Larkin asked for the hearing to be continued to 8:10pm for time to discuss how to proceed with his client. Steve Moeser made a

motion to continue the hearing to 8:10pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

At 8:10pm Chris Tracey re-opened the hearing.

Attorney Larkin requested the application be withdraw without prejudice. Theodore Maxant made a motion to accept the request to withdraw the application of the Larkin Real Estate Group, for a Special Permit for the demolition and reconstruction of two pre-existing non-conforming structures at 62 Old Littleton Road, Harvard. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

Zoning Board of Appeals

Special Permit Hearing Meeting Minutes

Jessica Piper Leahy, 3 Still River Depot Road

December 12, 2018

The hearing was opened at 7:36pm by Chairman Chris Tracey in the Town Hall Meeting Room, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-3. SM/TM 7:50pm

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant and Michael Lawton

Others Present: Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc.) Michael Leahy, Jessica Piper Leahy and Jim Piper

This hearing is for a Special Permit filed on behalf of Jessica Piper Leahy for the demolition and reconstruction of a portion of a pre-existing non-conforming structure, along with the approval of an accessory apartment at 19 Mill Road, Harvard.

Dan Wolfe, President of Ross Associates, was present to represent the applicants, Jessica Piper Leahy, who was also present. Mr. Wolfe explained the property is comprised of two parcels. The first contains the pre-existing non-conforming structure on the north corner of Mill Road and Pattee Lane. This parcel is a pre-existing non-conforming lot, at 0.54 acres. The second parcel is on the southerly corner of Mill Road and Pattee Lane and is currently vacant land at 1.17 acres. These parcels were once combined until the early 1900's, when Pattee Road was created by the Town from land donated by the then owners of the land, the Pattee Family.

The plan provided with the application details the reconstruction of the existing dwelling at 19 Mill Road, along with the construction of a garage on the parcel on the southerly corner of Mill Road and Pattee Lane. There will be no increase in the number of bedrooms within the reconstructed dwelling. The reconstruction will modernize the dwelling and allow for better portion on the lot. This reconstruction will not increase the existing non-conformity or be more detrimental to the neighborhood.

In addition to the request for the reconstruction of the pre-existing non-conforming structure, a portion of the existing house will be preserved and will be used as an accessory apartment for the current owner. All necessary amenities are being added to this space as required by 125-18.1 of the Protective Bylaw. The packet provided to with the application details an existing au pair suite; Mr. Wolfe wanted to make it clear that that area is not intended to be a private or separate living space. In addition, the proposed garage on the lot across Pattee Lane is compliant to zoning.

With no further questions or comments, Theodore Maxant made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

After a brief discussion, Theodore Maxant made a motion to close the hearing and issue two Special Permits to Jessica Piper for the reconstruction of a portion of a pre-existing non-conforming structure, along with the approval of an accessory apartment at 19 Mill Road, Harvard. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Town of Harvard, Zoning Board of Appeals Agenda, dated December 12, 2018

Approve Minutes

- Draft Harvard Zoning Board of Appeals Meeting Minutes of November 14, 2018 prepared by Liz Allard

Continuation of a Special Permit Hearing – Larkin Real Estate Group, 62 Old Littleton Road

- Subsurface Disposal System designed for Ken Van Wormer, Job No. 92.0648, prepared by Prestige Engineering, dated 11/16/92

Special Permit Hearing – Jessica Piper Leahy, 19 Mill Road

- Site Plan Jessica Piper Leahy 19 Mill Road Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 32481, Plan No. L-13657, November, 2018