

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
SEPTEMBER 16, 2020
APPROVED: FEBRUARY 10, 2021**

Chair Chris Tracey called the meeting to order at 7:02pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40B and the Code of the Town of Harvard Chapter 125

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

Planning Board Members Present: Justin Brown, Staci Donahue, Fran Nickerson, Jane Biering and Gwen Leonard

Others Present: Liz Allard (Land Use Boards Administrator), Christopher Ryan (Director of Community & Economic Development), Dan Wolfe (Ross Associates), The Murphy's, Norman Dandridge, Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Roseanne Saalfeld, Barbara & Gregory Romero, Ron Ostberg, Brian Nobel, Rich Maiore, Rick Maiore, Peter Dorward, Robin Carlaw, David Maxson (Isotrope, Inc.) Dave Tewksbury and John Martin

Special Permit Hearing – Dennis Quinn, 14 Wilroy Avenue. Opened at 7:06pm (See page 3 for complete details)

Special Permit Hearing – Edward & Margaret Murphy, 15 Harris Lane. Opened at 7:18pm (See page 4 for complete details)

Continuation of a Variance Hearing – Cellco Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road. Opened at 7:29pm. (See page 5 for complete details)

General Discussion of Wireless Communication Towers (WCT)

Michael Lawton provided an overview of wireless communications towers for members of the Zoning Board of Appeals and Planning Board that include the following topics:

- Ownership and leasing of WCT
- Decreasing value of service as the network becomes more dense
- Removal of unused towers (see Chapter 125-27 of the Code of the Town of Harvard)
- Benefits to a property owner to increase the number of co-locators on a WCT
- Use of telephone poles for cellular equipment
- The terrain and layout of Harvard make it difficult to have town-wide coverage from a single WCT
- Co-locators prefer their own generator; there have been times in which this equipment was shared at some site
- Shielding can be stipulated

Approve Minutes – August 12, 2020

This item was passed over

Election of Officers

This item was passed over

Adjournment

At 9:29pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Michael Lawton, aye; and Chris Tracey, aye.

NOTE: Theodore Maxant left the meeting at 8:30pm
Orville Dodson left the meeting at 9:19pm

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

- **Town of Harvard, Zoning Board of Appeals Agenda, dated September 16, 2020**
- **Verizon Photo Simulations, Harvard 3 MA, 12 Woodchuck Hill Road, Harvard, MA 01451, March 6, 2020**
- **Attachment A: Harvard 3 – Existing/Approved 700MHz LTE Coverage, undated**
- **Attachment B: Harvard 3 – 700MHz LTE Coverage with Proposed Site, undated**
- **Attachment C: Harvard 3 – Existing/Approved 700MHz Sector Footprints, undated**
- **Attachment D: Harvard 3 – 700MHz Sector Footprints with Proposed Sites, undated**
- **Attachment E: Harvard 3 – Area Terrain Map, undated**

Harvard Zoning Board of Appeals

Special Permit Hearing Minutes

Dennis Quinn, 14 Wilroy Avenue

September 16, 2020

The hearing was opened at 7:06pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

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

Others Present: Liz Allard (Land Use Boards Administrator) and Dan Wolfe (Ross Associates)

This hearing is for a Special Permit filed on behalf of Dennis Quinn for the addition to a pre-existing non-conforming structure at 14 Wilroy Avenue, Harvard.

Dan Wolfe, President of Ross Associates, was present to represent the applicant. Mr. Wolfe explained the structure in question is the first dwelling on the parcel under the Still River Trust Association. The structure is pre-existing non-conforming in regards to the side setback. The existing structure is 12' 3" from the property line and the proposed addition will be 12' 9" from the property line. Mr. Wolfe stated all requirements for a Special Permit under 125-3B and 125-46 have been satisfied, including no increase in stormwater runoff. Mr. Wolfe detailed the existing and proposed floor area and foot print of the structure.

Theodore Maxant had no comments. Steve Moeser asked about the increase in the number of bedrooms. Mr. Wolfe stated there is no proposed increase in the number of bedrooms with the addition, but instead an increase in the size of the existing rooms. Liz Allard stated an application will need to be filed with the Conservation Commission, at which a re-charge trench for roof runoff will be addressed.

Steve Moeser made a motion to close the evidentiary portion of the hearing. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Theodore Maxant made a motion to issue a Special Permit to Dennis Quinn to allow for additions to a pre-existing non-conforming structure at 14 Wilroy Avenue. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk

Special Permit Hearing Minutes

Edward & Margaret Murphy, 15 Harris Lane

September 16, 2020

The hearing was opened at 7:18pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

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

Others Present: Liz Allard (Land Use Boards Administrator), The Murphy's and Norman Dandridge

This hearing is for a Special Permit filed on behalf of Edward Murphy, for an accessory apartment at 15 Harris Lane, Harvard.

Norman Dandridge was present to represent the applicants Edward and Margaret Murphy, who were also present. Mr. Dandridge reviewed the proposed site plan and area calculations for the accessory apartment. Mr. Dandridge explained the unfinished portion of the garage will be utilized as parking, which maintains the accessory apartment under the maximum size at 1159.07 square feet. When asked about the dormers shown on the drawings of the accessory apartment, Mr. Dandridge stated the dormer windows will only provide a small area for utilities and is not a second floor within the accessory apartment.

Steve Moeser made a motion to close the evidentiary portion of the hearing. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Steve Moeser made a motion to issue a Special Permit to Edward and Margaret Murphy to allow for an accessory apartment at 15 Harris Lane. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk

Harvard Zoning Board of Appeals & Planning Board

Continuation of a ZBA Variance Hearing Minutes

Continuation of a Special Permit & Site Plan Approval Minutes

Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road

September 16, 2020

The Zoning Board of Appeals hearing was opened at 7:29pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chair Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

The Planning Board hearing was opened at 7:29pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chair Justin Brown under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

Zoning Board of Appeals Members Present: Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

Planning Board Members Present: Justin Brown, Staci Donahue, Fran Nickerson, Jane Biering and Gwen Leonard

Others Present: Liz Allard (Land Use Boards Administrator), Christopher Ryan (Director of Community & Economic Development), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Roseanne Saalfeld, Barbara & Gregory Romero, Ron Ostberg, Brian Nobel, Rich Maiore, Rick Maiore, Peter Dorward, Robin Carlaw, David Maxson (Isotrope, Inc.) Dave Tewksbury and John Martin

The Zoning Board of Appeals (ZBA) hearing was continued from August 12, 2020 for a Variance filed on behalf of Cello Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

The Planning Board hearing was continued from September 14, 2020 for a Special Permit and Site Plan Approval filed on behalf of Cello Partnership d/b/a Verizon Wireless to allow for a replacement wireless communications tower at 12 Woodchuck Hill Road, Harvard.

Chris Tracey explained to those present that the intent of the meeting was to discuss the variance application only, therefore all question should pertain to that application. The members of the Planning Board were present to educate themselves further on the very complicated permitting process surrounding wireless communications towers.

In regards to the variance, Christopher Swiniarski, the Attorney for Verizon Wireless, provide his opinion as to the requirements under Federal Law. It is Attorney Swiniarski understanding that Town Counsel, Mark Lanza, will be providing the ZBA with additional guidance on the matter. Attorney Swiniarski stated it is his understanding Town Officials are seeking locations for an alternative location for a wireless communications tower. Attorney Swiniarski does not debate additional coverage is necessary for the Town of Harvard, however the availability of the Hildreth House was not an option several years ago when Verizon was seeking to locate a tower in Harvard. In addition, the Hildreth House is within the Historic District, therefore, Attorney

Swiniarski does not find the location to be an alternative to 12 Woodchuck Hill Road. In addition, other alternatives have also been vetted and are simply not available.

Attorney Swiniarski indicated he has not had an opportunity to fully review the report provide by Isotrope, the peer consultant for the Boards.

Mr. Tracey stated the narrative provide with the application details customer complaints of lack of service in the area; could Attorney Swiniarski detail how many complaints that would be? Attorney Swiniarski will attempt to flesh-out that information. In addition, Mr. Tracey would like to know if those complaints are from people in the community or those who travel through Harvard.

The ZBA would be interested in knowing if there are other locations within Town that a tower could be constructed that would not need a variance or lesser relief would be necessary. Attorney Swiniarski stated the answer to such a question is not cut and dry as not every property is evaluated as to whether or not a variance is necessary. Attorney Swiniarski stated the height of the tower would not change along the ridge and achieving the proper property line setback may not change the overall impact on a different property.

Mr. Tracey indicated there is significant non-support of the variance request; the intent of public good needs to be heard by the ZBA to be at all supportive of this variance. Attorney Swiniarski stated the criteria under State and Federal law for a variance for this type of facility. There is a sense of the ZBA that the criteria to provide coverage of a substantial gap will not be achieved by the granting of the height variance. In order to better understand the increased coverage on the maps provide, Mr. Tracey asked the additional coverage that would be obtained by the variance height be shown in a different color.

Steve Moeser questioned the requested relief from the Protective Bylaw; this was clarified at the previous meeting. Mr. Moeser stated there are terms being used that he is unable to quantify. Attorney Swiniarski stated what is trying to conveyed is the idea that by increasing users you decrease the quality of the cellular service and that Verizon's goal is to always do better.

Michael Lawton asked the applicant provide information that shows how the requested relief would address the coverage gaps in Harvard and how the comparison sites would address the gap.

Resident Brian Noble asked if the tower would be a single or multiple platform tower. Attorney Swiniarski stated the application is for a single platform tower, with additional areas for additional carriers; however, he cannot provide any information on how many co-locators will be or when they will be applied to the tower. Mr. Noble asked for more clarification on the additional users. Attorney Swiniarski stated Verizon would be using all four platforms, with additional carriers on the tower below them; each carrier needs approximately ten feet on the tower; therefore, four to five additional carriers could be on this tower.

Justin Brown, chair of the Planning Board, stated tab 10 of the application indicates the tower at 75' and 105', both of which are allowed under the Protective Bylaw. Attorney Swiniarski detailed the actual height being requested by this application.

There was a brief discussion of the consulting services being provide by Isotrope. Attorney Swiniarski will provide an extension of the ZBA application to November 30, 2020.

Steve Moeser made a motion to continue the hearing to October 14, 2020 at 7:00pm. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk