

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
APRIL 13, 2022
APPROVED: AUGUST 10, 2022**

Chair Christopher Tracey called the meeting to order at 7:01pm, virtually pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on February 15, 2022, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Michael Lawton, Theodore Maxant (departed at 8:42pm) and Orville Dodson (Associate Member)

Others Present: Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates), Barbara Romero, Mark O'Hagan (Craftsman Village Harvard), Bruce Ringwall (GPR, Inc.), Bill Ference, Robert Brown, Kathleen Restic, Aspen Ference, Shannon Boecke, Tony Shaw, Keith & Mary Turner, Sotir Papalilo

Special Permit Hearing - Robert Brown & Kathleen Restic, 198 Prospect Hill Road. Opened at 7:02pm (see page 3 for complete details)

Approve Minutes

Theodore Maxant made a motion to approve the minutes of January 26, 2022 as drafted. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Special Permit Hearing – William Ference, 247 Littleton County Road. Opened at 7:15pm (see page 5 for complete details)

Annual Appointments – Theodore Maxant, Orville Dodson and Steve Moeser

Theodore Maxant has informed the Select Board that he would not be seeking reappointment to the ZBA this June. With both Steve Moeser and Orville Dodson interested being reappointed to the ZBA Michael Lawton made a motion to recommended to the Select Board their reappointments to the ZBA. Orville Dodson sconed the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Theodore Maxant; aye; Orville Dodson, aye; and Chris Tracey, aye.

Interview of Potential Volunteer – Barbara Romero

Barbara Romero stated has found this group to be a very cool brain trust. Ms. Romero have had the experience to see the ZBA walk through a sticky situation, stating the ZBA members had done it eloquently. She would like to be a part of this process to help in her career better understand the process. After a few additional questions from the Board, Michael Lawton made a motion to recommend to the Select Board the appointment of Barbara Romero as an Associate Member of the Zoning Board of Appeals. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Theodore Maxant, aye; Orville Dodson, aye; and Chris Tracey, aye.

Craftsman Village Harvard – Release of Certificates of Occupancy Units#1- 10

Mark O'Hagan, of the Weston Development Group, stated the ten units being sought of Certificates of Occupancy are all substantially complete. The eight market units are under agreement, with the lottery for the two affordable units taking place at the end of the month. The Department of Environmental Protection has approved the public drinking water supply. Board of Health requirements for the irrigation well have been approved, however there are outstanding items related to the septic system and the irrigation well; final acceptance of these items has not yet been confirmed.

The Fire Department has determined the property is compliant with the applicable codes and standards, as well as have issued smoke certificates for the first eight of the ten homes that have been completed. Dillis & Roy Civil Design Group provided a review of the interim as-built plan for units #1 through #10 indicating the development is in general conformance with the approved plans for the project.

After briefly discussing the information provided, Orville Dodson made a motion to release the Certificates of Compliances for Craftsman Village for units 1-10, as requested, subject to the Chair, Chris Tracey and Land Use Administrator, Liz Allard receiving confirmation from the Board of Health that the required information pertaining to the septic system and irrigation well have satisfactorily been received. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Orville Dodson, aye; and Chris Tracey, aye.

Adjournment

At 9:31pm Michael Lawton made a motion to adjourn the meeting. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call vote, Michael Lawton, aye; Orville Dodson, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

- Town of Harvard, Zoning Board of Appeals Agenda, dated April 13, 2022
- Site Plan Robert Brown & Kathleen Restic, #198 Prospect Hill Road Harvard, MA Job No.: 33735, Plan No.: L-14489, prepared by David E. Ross Associates, Inc., February, 2022
- Letter to the Harvard Board of Selectmen, Zoning Board of Appeals, Zoning Board and Town officials, from Todd Brown and Rob Cullinane, 279 Littleton County Road, received April 12, 2022
- Letter "To whom it may concern", from Suzanne Buell, received April 12, 2022

Harvard Zoning Board of Appeals

Special Permit Hearing Minutes

Robert Brown & Kathleen Restic, 198 Prospect Hill Road

April 13, 2022

The hearing was opened by Chair Christopher Tracey at 7:02pm virtually, pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on February 15, 2022, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Michael Lawton, Theodore Maxant and Orville Dodson (Associate Member)

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

This hearing is for a Special Permit filed on behalf of Robert Brown & Kathleen Restic for an addition to a pre-existing non-conforming structure at 198 Prospect Hill Road, Harvard.

Dan Wolfe, of Ross Associates, Inc., detailed the application before the Board is for the construction proposed addition of a connecting structure between the existing dwelling and the proposed barn/garage. As proposed the additions do not increase the existing non-conformity, (sideline setback), nor will it create any new non-conformities. The application included a summary of the dimensional aspects of the project and percent changes in, including footprint sizes, total floor area sizes, as well as relationship to the floor area ratio per §125-30(B).

Mr. Wolfe stated the proposed addition and barn/garage will not result in substantial increased of volume or rate of runoff to the original comments received from neighboring properties and streets, nor will it result in substantial danger of pollution or contamination of the ground water supply, a groundwater absorption area, well, Bare Hill Pond or the W-districts.

Although the proposal does not intend to increase in the existing number of bedrooms, the Board of Health, Wolfe has had conversations with the Town Sanitarian, Ira Grossman and has resolved the room count issue as it pertains to the use of the room on the second floor of the barn/garage. This area maybe finished at a later date, but; however, this will not exceed the total room count for the capacity of the existing septic system.

Michael Lawton asked if the new structure would be more non-conforming than what is already on site. Mr. Wolfe stated the structure maybe closer, but it will not be more non-conforming to what is already on the site.

Chris Tracey read the comments received from Richard Dickerson into the record.

With no further questions or comments, Orville Dodson made a motion to close the evidentiary portion of the hearing. Theodore Maxant seconded the motion. The vote was unanimous by roll call vote, Michael Lawton, aye; Theodore Maxant, aye; Orville Dodson, aye, and Chris Tracey, aye.

After reviewing the requirements for a Special Permit under §125-3 and §125-46, Theodore Maxant made a motion to grant a Special Permit to Robert Brown & Kathleen Restic, for an addition to a pre-existing

non-conforming structure at 198 Prospect Hill Road, Harvard. The vote was unanimous by roll call vote, Michael Lawton, aye; Theodore Maxant, aye; Orville Dodson, aye, and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk

Harvard Zoning Board of Appeals

Special Permit Hearing Minutes

William Ference, 247 Littleton County Road

April 13, 2022

The hearing was opened by Chair Christopher Tracey at 7:15pm virtually, pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on February 15, 2022, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Michael Lawton, Theodore Maxant and Orville Dodson (Associate Member)

Others Present: Liz Allard (Land Use Boards Administrator), Bruce Ringwall (GPR, Inc.), Bill Ference,

This hearing is for a Special Permit filed on behalf of for an over-sized non-conforming structure, a reduced setback to the centerline of the way, and a non-conforming use as an event location for weddings, conferences, retreats, and lodging and hostel, with some uses including catering At 247 Littleton County Road, Harvard.

Bill Ference, the applicant, stated he lives in Town with his wife who grew up in Harvard. Mr. Ference has a background in hospitality, and was excited when the property known as Friendly Crossways, came onto the market. Mr. Ference wants to continue the use of the property as it has been done by Mary Helen and Keith Turner, who had purchased the property from Mary Helen's parents.

Mr. Ference has applied for a Special Permit to assist in clarifying the pre-existing non-conforming use and expanded upon the pre-existing non-conform structure. Mr. Ference explained since 1947 the location has been used an event venue in which documentation has provided as part of the application. As part of the process the Board of Health (BOH) is requiring a fully compliant kitchen, therefore the need for the addition. This addition will not change roadside view of the existing structure. Mr. Ference stated he has no intention to change in the nature or degree of the historical use of the property.

Chris Tracey reviewed the need for permits from other Boards, including Site Plan Approval from the Planning Board (PB) and sewage disposal permits from the BOH. When asked Mr. Ference stated he has not filed with the PB as of yet and has soil testing scheduled for April 26th with the BOH.

With the goal of replicating what has been happening on the property since 1947 Mr. Ference stated he has documented an average of 130 event days/year, not including the hostel use. Mr. Ference does not intend to increase that number, but continue with it, along with the hostile use. The hostile is not intended to be the primary use of the facility. When asked what the intent is as it pertains to events that include alcohol, Mr. Ference stated all events have had alcohol since 1947. The Town Clerk has indicated no complaints have been filed, therefore Mr. Ference intends to keep that going moving forward.

The Building Commissioner has indicated there have been applications for events that include a party tent and Board of Health has noted permits for food service have not been obtained. The Select Board have recently issued an inn keepers license for the location. Mr. Tracey stated this is the time to identify with specificity what will take place at this location. Attorney Mark Lanza stated limitations for the serving of alcohol may limit the number of events that can take place at this location. Attorney Lanza stated the Special Permit should clearly indicate how many events are allowed annually and types of limitations there may be on the site during these events.

Mr. Ference stated he can't comment on the previous inefficacies for proper permits for the use of the property, but as the new owner be compliant with local and state regulations. In addition, as the new owner, Mr. Ference expects to pursue an on-premise pouring license that does not have the 30-event restriction, as indicated by Attorney Lanza. The Select Board has indicated one license is available and there should be no hurdles to obtaining said license. According to Mr. Ference caterers with proper state licensing do not require a permit from the Town to serve alcohol, but do need to notify the local police department; there are no limits on the number of events under this process. Mr. Tracey indicated that he did not get the same reaction from Attorney Lanza today when they discussed the matter of serving alcohol. With well over 30 events annually the 30-event restriction, as it pertains to serving alcohol, would be exceeded, therefore a violation of the requirements of zoning. Mr. Tracey stated Harvard was a dry community at one point, so there is no surprise there are limitations on the number of events that include alcohol. The Board will be seeking advice from Attorney Lanza on this matter. Mr. Ference suggest his counsel and Attorney Lanza discuss the matter for better clarification of all involved.

Mr. Tracey read from §125-3 pertaining to a conforming use not reverting back to a non-conforming use. The property is currently being used as housing for Afghanistan refugees. Mr. Tracey stated whether those families are living in there for a day or more is that a change in use. Mr. Ference stated that there are times in which events are not occurring because the venue is typically a warm weather event facility, but all of the equipment for those events are still on-site. Therefore, there is no pause in the use.

Michael Lawton stated within §125-3D(2)(b) a use has to fit into these buckets, but what is it that's not conforming. Bruce Ringwall, of GPR, Inc., stated the uses that have occurred on the site since 1947 are only allowed within the commercial district including §125-13F and L. But as we know these uses have been active since before the zoning bylaw was adopted, making them non-conforming uses.

Theodore Maxant stated the Board needs to know what buildings, structures and use will be on the site going forward. Mr. Maxant does not have any problem with the addition to the building as there is plenty of parking and open space on the property. The use is similar to what Fruitland's was doing, which resulted in a zoning change. Mr. Maxant does not want to get into the permitting of the alcohol. Wine & beer is a typical use for a hostel; he has no problem with that. What he does have a problem with the potential of having rock bands on the weekends disrupting the neighborhood. Mr. Maxant believes the use of the property is good for the Town and would support the request.

CT recognized the letters of support from Todd Brown and Rob Cullinane, of 279 Littleton County Road and Suzanne Buell, of 247 Littleton County Road.

There were no comments from public.

With more information necessary for the Board to make a decision Michael Lawton made a motion to continue the hearing to April 27, 2022 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimous by roll call vote, Michael Lawton, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Signed: _____ Liz Allard, Clerk