

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
FEBRUARY 12, 2014  
APPROVED: April 23, 2014**

Chairman Chris Tracey opened the meeting at 7:31pm in the Town Hall Meeting Room under Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Robert Capobianco (by Skype), Orville Dodson, Michael Lawton and Theodor Maxant

**Others Present:** Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc.), Brian Talbot, Daryl Collins and Joe Theriault

**Special Permit Hearing – Daryl Collins and Brian Talbot, 74 Bolton Road.** Opened at 7:30pm (See page 2 for detailed minutes)

**Request for a *De Minimus* Change - Trail Ridge**

Liz Allard explained she has been contacted by Dennis Ring from PRM Capital in regards to the construction of the remaining units at Trail Ridge. Potential buyers of the units have requested the proposed decks be constructed as sunrooms, which has been completed on a number of the existing units. The change typically has been a standard conversion of the deck to a sunroom within the same footprint on the existing four unit buildings. However, when the decks were designed for the revised two-unit buildings the size was reduced to a 10' x 8' deck rather than the 10' x 12' standard on the four-unit building. When Mr. Ring constructed a sunroom on a new two-unit building he assumed the room was to be 10' x 12' and not the proposed 10' x 8' as shown on the approved plan, therefore the sunroom is two feet closer to the property line at 23' rather than 25' as shown on the plan. Mr. Ring is requesting the change on the plan be found as a *De Minimus* change and not require the re-opening of the hearing to amend the plan.

After a brief discussion, Robert Capobianco made a motion to approve the change as *De Minimus*. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

**Protective Bylaw Amendments 125-3 Existing Lots, Structures & Uses**

Liz Allard had previously distributed the proposed amendments to Chapter 125-3 of the Protective Bylaw as suggested by the Planning Board as a result of the public hearing on February 3<sup>rd</sup>.

**Adjournment**

Steve Moeser made a motion to adjourn the meeting at 9:07pm. Robert Capobianco 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**

#### **Daryl Collins & Brian Talbot, 74 Bolton Road**

**February 12, 2014**

The hearing was opened at 7:31pm by Chairman Chris Tracey in the Town Hall Meeting Room under Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Robert Capobianco (by Skype), Orville Dodson, Theodore Maxant and Michael Lawton

**Others Present:** Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc.), Brian Talbot, Daryl Collins and Joe Theriault

This hearing is for a Special Permit filed on behalf of Daryl Collins and Brian Talbot for an accessory apartment on a pre-existing non-conforming lot at 74 Bolton Road, Harvard.

Robert Capobianco made a motion to waive the reading of the legal notice. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Dan Wolfe, of Ross Associates, was present to represent the applicants, Brian Talbot and Daryl Collis, who were also present. Mr. Wolfe explained the lot is non-conforming due to a lack of the proper amount of frontage along Bolton Road. The existing structures on the property, a single-family dwelling and garage, are conforming. The applicants are seeking two special permits one for an accessory apartment and the other for an addition to the existing dwelling on a pre-existing non-conforming lot. There had been some conflicting information provided in regards to the accessory apartment provision of the Protective Bylaw, Chapter 125-18.1A(1), which states "The primary residence shall have been established as a single-family residence at least five years prior to the date of application for the special permit". Some read this to mean that the structure in which the accessory apartment would be within would have to be in existence for five years prior to being converted to an accessory apartment; others read it as only the primary residence had to be in existence for five years in order to construct or convert existing space into an accessory apartment. Chris Tracey confirmed that Town Counsel stated the apartment does not have to be within an existing structure; therefore a new structure can be built for the purpose of an accessory apartment as long as the primary residence has been in existence for five years.

Since at the time of the application the applicant was unaware of Town Counsel's opinion three options were submitted. Option 1 detailed the construction of a new structure to house the accessory structure; option 2 detailed a two-story addition to the existing dwelling, with an accessory apartment on the first floor of the addition; option 3 detailed the same two story addition to the existing dwelling, but it would be just additional living space to the existing dwelling and would not be an accessory apartment.

Members agreed the applicant needed to make a choice this evening on which plan would be permitted. The applicants chose option 2 for approval this evening. Steve Moeser noted the application did not include any documentation on the appearance or elevations of the proposed addition. The work proposed also includes additions to the existing garage, a covered walkway and ramp and an additional one-story addition to the south side of the existing dwelling.

Mr. Moeser asked with the proposed additions to the existing dwelling, how is §125-18.1A(2) being met. Mr. Wolfe stated he thinks that is easy to satisfy, as this simply is going to be the appearance of a one-family structure. Mr. Tracey further clarified Mr. Moeser's question by asking how you can make a favorable determination under §125-18.1A(2) without elevations or

architectural design. Mr. Moeser can not remember a time when the ZBA did not have the elevation for an application. Robert Capobianco is strongly reluctant to vote on this without proper visuals. After further discussion, the ZBA members agreed they did not need the plans indicating the elevation or architectural design of the exterior of the additions.

Joe Theriault, an abutter stated he was concerned with the possibility of the property becoming a two-family under option 1, however option 2 removes that concern for him.

A letter was received from the direct abutter at 72 Bolton Road, seeking additional screening between the two properties to be able to maintain privacy. The applicant's are willing to install additional screening on the property line to the north.

To allow for the appropriate time for allowed comments (35 days), Steve Moeser made a motion to continue the hearing to February 19, 2014 at 7:25pm at the Center on the Common. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Liz Allard, Clerk

## DOCUMENTS & OTHER EXHIBITS

### **Special Permit Hearing – Daryl Collins and Brian Talbot, 74 Bolton Road**

- ❖ plans prepared by Durrant Design, dated 01-16-14, First Floor As-built AB-1, Second Floor As-built AB-2, Accessory Apartment Option #1 1A, Partial Site Plan Option #1 1S, Accessory Apartment Option #2 2A, Second Floor Option #2 2B, Partial Site Plan Option #2 2S, 1<sup>st</sup> Floor Addition Option #3 3A, Second Floor Addition Option #3 3B, Partial Site Plan Option #3 3S