

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
DECEMBER 10, 2014  
APPROVED: JANUARY 14, 2015**

Chairman Chris Tracey opened the meeting at 7:10pm in the Town Hall Meeting Room under MGL Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Robert Capobianco, Orville Dodson

**Others Present:** Liz Allard (LUB Admin) and Bill Scanlan (Town Planner)

**Board of Selectmen Liaison**

Newly elected Board of Selectmen (BOS) member Ken Swanton was present to introduce himself as the liaison from the BOS to the Zoning Board of Appeals (ZBA). Swanton stated he had served on the Planning Board and the Conservation Commission when he resided in Bolton and is familiar with the types of matters that come before the ZBA. If at anytime there is something Mr. Swanton can assist the ZBA with please feel free to call on him.

**Request for a *De Minimus* Change to the Special Permit at 74 Bolton Road**

Liz Allard had previously circulated in the request from the property owner, Brian Talbot, who has requested a De Minimus change to the Special Permit issued to him for an accessory apartment. The original plan called for two 12' x 24' additions to either side of the existing garage; the proposed change would create one 24' x 24' addition to the north side of the garage. The addition on this side of the existing garage would be no closer to the property line than the existing dwelling on the property.

Ms. Allard has heard from the direct abutter, Pete Kane at 72 Bolton Road, who requested additional screening along the property to reduce the visual effects from this addition from his property. Ms. Allard has also spoken with Mr. Talbot who is agreement with this request.

With no questions or comments, Steve Moser made a motion to approve the change to the plan as described above as De Minimus. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

**Protective Bylaw Chapter 125-18.1 Accessory Apartment Amendment**

Chris Tracey explained to the members that he had recently met with Town Planner, Bill Scanlan and the Land Use Administrator, Liz Allard, to discuss the accessory apartment provision within the Protective Bylaw in regards to the requirement that a dwelling be established for five years prior to the issuance of a Special Permit for an accessory apartment. During that discussion it became evident that the ZBA typically issues a Special Permit if all of the provisions with 125-18.1 are met; if this is the case then why not allow for it by-right rather than by Special Permit. It was further discussed and agreed that the by-right provision should be for accessory apartments with an existing dwelling or an accessory structure already on the property. A Special Permit would be required if an addition to the existing dwelling or the construction of an accessory building was requested. Scanlan had stated in order to diversify housing stock in town the ZBA should consider removing the provision that the dwelling be established for five years prior to the issuance of a Special Permit for an accessory apartment. In addition, a recent building permit for the construction of a single family home on Lovers Lane brought to light the use of a single entrance to the primary dwelling and a set of rooms above the garage does not make those rooms an accessory apartment as the provision as written requires a separate entrance into the accessory apartment. Scanlan suggests removing this provision as well.

Robert Capobianco arrived at 7:28pm

After bring Mr. Capobianco up to speed on the conversation, he had concerns about builders now wanting to build houses that included accessory apartments and a buyer knowing they are constrained to living in the primary residence. Scanlan explained that under the by-right provision there would need to be a deed restriction recorded prior to the issuance of the certificate of occupancy; which requires additional language to be added to the provision of the Bylaw. Scanlan stated there is a need for smaller units in town with an aging population looking to down size. Mr. Tracey stated he may not agree to restricting the owner to the primary residence. Theodore Maxant is in favor of the five year waiting period. Steve Moeser is torn between maintaining the character of Town and the desire to keep people in Town. Mr. Capobianco would like to see a separate entrance to the accessory apartment from that of the primary residence.

Mr. Maxant stated he would like to leave the bylaw the way it exists currently. Orville Dodson stated the bylaw should address anything that is conflicting with other bylaws, butto maintain the provisions as is. Mr. Moeser sees no need for a separate entrance and he would like a way have the owner be restricted to residing within either of the units.

Theodore Maxant left the meeting at 8:05pm.

After a discussion about the value to a developer of building dwellings with an accessory apartment, the members agreed that would hold off on any amendments to this bylaw until the Master Plan is completed and potentially provides some direction.

#### **Adjournment**

At 8:44pm Steve Moeser made a motion to adjourn the meeting. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

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