

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
FEBRUARY 11, 2015
APPROVED: APRIL 8, 2015**

Chairman Chris Tracey opened the meeting at 7:30pm in the Break Room at Town Hall under MGL Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Steve Moeser, Robert Capobianco and Theodore Maxant

Others Present: Liz Allard (LUB Admin), Roy Pastor, Esq., Clifford Tomassian, Steve Pool (Lakeview Eng.), Connie Donahue (CHOICE), Joe Peznola (Hancock Assoc.) and Douglas Deschenes, Esq.

Continuation of a Special Permit Hearing – Clifford Tomassian, 50 Turner Lane. Opened at 7:30pm(for detailed minutes see page 3)

Continuation of a Special Permit Hearing – The Homescout, LLC, 90 Warren Avenue. Opened at 8:12pm (for detailed minutes see page 4)

Request for a *De Minimus* Change to the Comprehensive Permit – CHOICE 105 Stow Road
Attorney Douglas Deschenes, the representative for the Chelmsford Housing Opportunities for Intergenerational and Community Endeavors (CHOICE), was present to discuss with the ZBA the need for additional waivers to the Comprehensive Permit issued to CHOICE for 105 Stow Road. Attorney Deschenes explained the Town Sanitarian's interpretation of the Board of Health (BOH) regulation, Chapter 145-6A, is the requirement to build a wastewater treatment plant for location as the site will have more than four separate structures. Attorney Deschenes stated a standard Title V system has been designed and will comply with chapter two of "Guides for the Design of Wastewater Treatment Works" publication TR-16.

Attorney Deschenes stated the system, as designed, has a price tag of \$100,000 plus; a wastewater treatment plant is in the range of one million plus. In addition, a treatment plant would require a licensed operator on-site everyday; another added cost. Attorney Deschenes stated the Department of Environmental Protection would not allow for a treatment plant for this size of development. The issue has been discussed this at length with BOH; who have voted to waive the regulation. Since there are no clauses within BOH regulations to waive any of their regulations and the site has been permitted under a Comprehensive Permit, Attorney Deschenes is present this evening to request an additional waiver to Chapter 145-6A to allow for five buildings rather than the four as detailed in this provision of the Code of the Town of Harvard. In addition, the ZBA has the ability to allow this additional waiver as a *De Minimus* change to the Comprehensive Permit, therefore it would not require the re-opening of the hearing to approve this change. After a brief discussion on this request, Robert Capobianco made a motion to allow the additional waiver to the Board of Health Regulation Chapter 145-6A. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Attorney Deschenes explained the BOH had requested a back up generator for the septic system should there be a power failure, to allow the system to continue to function. The applicant has agreed to include a small generator that will only support the pump chamber. In addition, Attorney Deschenes stated the BOH is requiring an escrow account be established for the replacement of the system should there be failure in the future that is not dealt with by those managing the site. This request for an escrow account and the generator is an unwritten policy of the BOH; therefore it is hard request a waiver to an unwritten policy.

Attorney Deschenes reminded the ZBA of the financial reports that were presented during the hearings for the Comprehensive Permit. These reports showed that CHOICE has made provisions for the replacement of the septic system in the future. Attorney Deschenes further

explained that funding sources (State and Federal) would not allow for such funds to be set aside, as that would be seen as funds they could use for the project and not needed outside funding.

Steve Moeser asked if the applicant or its representative explained to BOH where the funds would come from as they had to ZBA. Attorney Deschenes stated not in the detailed we did with the ZBA. Chris Tracey is perplexed by the unwritten policies of the BOH; if there are policies they should be clear and written; how could the ZBA allow a waiver to something that is an unwritten policy. Attorney Deschenes stated this policy makes the project uneconomical. Robert Capobianco wanted to know how the BOH enforces an unwritten policy. Attorney Deschenes stated they would not grant the septic permit.

Mr. Tracey recommended that Attorney Deschenes speak with Town Counsel to determine how to proceed with this requirement from the BOH and how the ZBA can be of assistance to clear up any confusion over the matter.

Adjournment

At 8:38pm Robert Capobianco made a motion to adjourn the meeting. Steve Moeser 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

Clifford Tomassian, 50 Turner Lane

February 11, 2015

The hearing was opened at 7:30pm by Chairman Chris Tracey in the Town Hall Break Room under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

Members Present: Chris Tracey, Steve Moeser, Robert Capobianco (by Skype) and Theodore Maxant

Others Present: Liz Allard (LUB Admin), Roy Pastor, Esq., Cliff Tomassian and Steve Poole (Lakeview Eng.)

This hearing was continued from January 14, 2015 for a Special Permit filed on behalf of Clifford Tomassian for the conversion of a seasonal residence to year-round residence at 50 Turner Lane, Harvard.

Attorney Roy Pastor was present this evening to represent the applicant, along with Steve Poole, of Lakeview Engineering. Attorney Pastor thought all items from the Board of Health had been addressed. Liz Allard stated when she asked Ira Grossman, the Town Sanitarian, he had stated that the issues detailed in the BOH letter date had still not been properly addressed.

Steve Moeser continues to be concerned with the decision made by the Department of Environmental Protection in 2010 that states the dwelling is allowed to be seasonal only due to the fact it uses a tight tank for sewage disposal. After a brief discussion of the items the BOH are seeking, Robert Capobianco suggested the applicant and his attorney meet with the BOH and get a written statement from them indicating all items of concern have been addressed. With that said, Robert Capobianco made a motion to continue the hearing to March 11, 2015 at 8:00pm in the Hildreth House. Steve Moeser 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

The Homescout, LLC, 90 Warren Avenue

February 11, 2015

The hearing was opened at 8:12pm by Chairman Chris Tracey in the Town Hall Break Room under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

Members Present: Chris Tracey, Steve Moeser, Robert Capobianco (by Skype) and Theodore Maxant

Others Present: Liz Allard (LUB Admin)

This hearing was continued from January 14, 2015 for a Special Permit filed on behalf of The Homescout, LLC for the reconstruction of an existing single family dwelling with the alteration/enlargement of the existing safety rail crossing, a finding that the lot may be used as if conforming to the bylaw and is in compliance with land-structure relations, and the conversion of a seasonal residence to year-round residence at 90 Warren Avenue, Harvard.

Liz Allard informed the members that the applicant's representative has requested the hearing be continued to March 11, 2015 to allow for additional time to determine what steps to take next in the process now that Town Counsel has determined the need for a variance for the side rails of the bridge along the proposed driveway.

Robert Capobianco made a motion to continue the hearing to March 11, 2015 at 8:15pm in the Hildreth House. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk