

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
APRIL 11, 2018
APPROVED: MAY 9, 2018**

Chairman Chris Tracey called the meeting to order at 7:35pm in the Town Hall, 13 Ayer Road, under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

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

Others Present: Liz Allard, Beth Clark, Rein Pirn, Carla Page (Pine Hill Village), Peter Cricones (Pine Hill Village), Sherlie LaPierre and Robert LaPierre

Continuation of a Special Permit Hearing – Marianne E. Rogers 53 Turner Lane. Opened at 7:35pm

Continuation of a Special Permit Hearing – MCI Communications Services, Inc., north end of Depot Road (Map 7 Parcel 1024). Opened at 7:40pm

Continuation of a Comprehensive Permit Hearing - Craftsman Village Harvard, LLC, Ayer Road (Map 7 Parcels 7.1 & 7.2). Opened at 7:52m

Approve Minutes

Michael Lawton made a motion to approve the minutes of January 10, 2018 as presented. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Steve Moeser made a motion to approve the minutes of February 7, 2018 as presented. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion.

Variance Hearing – Elizabeth Clark, 110 Littleton Road. Opened at 8:30pm.

Comprehensive Permit Final Plan Approval – Pine Hill Village, Stow Road, (Map 36 Parcels 85 & 86.1)

Peter Cricones, the new owner of Pine Hill Village, was present along with Carla Page, his attorney. Mr. Cricones stated while finalizing all of the plans the number of units has changed from 24 to 23 due to changes to the septic systems. In addition, these changes required some elevation changes on the property on the West Serpentine lot. Peer review has begun by Nitsch Engineering and the necessary application has been submitted to MassHousing.

Comments received from the Fire Department will need to be addressed. The final plans listed within the Comprehensive Permit under Condition 3.31 need to be submitted as well, for example the submittal did not include a lighting plan.

Concerns by abutters in regards to issuance of additional waivers for lighting was addressed by Mr. Cricones who stated he did not intend to ask for any waivers to lighting. Back up generators for the septic system should be discussed with the Board of Health.

Robert LaPierre, an abutter, stated he did not see the waterlines on the utilities plan. Will the fire cistern be completed in phase 2? Mr. Cricones stated it would. Mr. LaPierre asked where the fire hydrant will be located. Mr. Cricones stated near the cistern.

With so many facilities on the property that will require routine maintain, such as the septic systems and stormwater facilities, the Board discussed the need for there to be a signed affidavit of understanding of the documents and the responsibilities by each of the property owners to

ensure they understand what they are buying into and to reduce any burden on the Town to have to go in and fix failing facilities.

Mr. LaPierre asked about the required audits under these types of developments. The will need to review the Comprehensive Permit to determine when these audits need to take place and who is responsible for ensuring the profit margins are maintained.

Theodore Maxant and Orville Dodson left the meeting at 10:02pm

Adjournment

At 10:03pm Michael Lawton 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

Marianne E. Rogers, 53 Turner Lane

April 11, 2018

The hearing was opened at 7:35pm by Chairman Chris Tracey in the Town Hall, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-11

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

Others Present: Liz Allard (LUB Admin)

This hearing was continued from January 10, 2018 for a Special Permit filed on behalf of Marianne Rogers for the conversion of the dwelling from seasonal to year-round use at 53 Turner Lane, Harvard.

Amanda Risch, attorney for the applicant requested the hearing be continued to May 9, 2018 at 7:00pm. Steve Moeser made a motion to continue the hearing to May 9, 2018 at 7:00pm in the Town Hall. Orville Dodson 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

MCI Communications Services, Inc., north end of Depot Road (Map 7 Parcel 1024)

April 11, 2018

The hearing was opened at 7:40pm by Chairman Chris Tracey in the Town Hall, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-16, 125-21 and 125-46.

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

Others Present: Liz Allard

This hearing was continued from February 28, 2018 for a Special Permit filed on behalf of MCI Communications Inc., for the continued operation of a fiber optic long distance repeater site with associated standby power on the site at the north end of Depot Road, Harvard (Map 7 Parcel 1024).

Information requested by the ZBA at the February 28, 2018 meeting, including the original easement agreement, amendments to that agreement and renewal notices, is provided for the record. Those documents have been received by the Clerk of the ZBA.

With no further questions or comments, Orville Dodson made a motion to close the hearing, issue the Special Permit to MCI Communications, Inc., for five years and allow Chris Tracey to sign the decision on behalf of the Board. Michal Lawton seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

Zoning Board of Appeals

Comprehensive Permit Hearing Meeting Minutes

Continuation of a Craftsman Village Harvard, LLC, Ayer Road (Map 2 Parcels 7.1 & 7.2)

April 11, 2018

The hearing was opened at 7:52pm by Chairman Chris Tracey in the Town Hall, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-46F

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

Others Present: Liz Allard (LUB Admin)

This hearing was continued from February 28, 2018 for a for a Comprehensive Permit filed on behalf of Craftsman Village Harvard, LLC for the creation of eight-teen two-bedroom cottage-styled units, consisting of five affordable units along Ayer Road (Map 7 Parcels 7.1 & 7.2), Harvard.

Steve Moeser made a motion to approve the invoice from Ducharme & Dillis in the amount of \$2,625.00 for peer review of this application. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

The applicant is awaiting a determination from the Department of Environmental Protection in regards to the opinion of the Harvard Board of Health that the property is deemed one facility and thereby requires a Public Water Supply system. The applicant requested the hearing be continued.

Steve Moeser made a motion to continue the hearing to May 9th at 7:10pm in the Town Hall Meeting Room. Theodore Maxant Seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

Zoning Board of Appeals

Variance Hearing Meeting Minutes

Elizabeth Clark, 110 Littleton Road

April 11, 2018

The hearing was opened at 8:30pm by Chairman Chris Tracey in the Town Hall, 13 Ayer Road, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-30E(3) ND 125-45B

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

Others Present: Liz Allard (LUB Admin), Beth Clark and Rein Pirn

This hearing is for a Variance filed on behalf of Elizabeth Clark for the construction of a deck within the sideline setback at 110 Littleton Road, Harvard.

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

Beth Clark explained her house was built in 1986 at the rear of the property at the edge of the forty foot side line setback on two sides of the house. When purchased, the house had a sliding door with a four foot drop to grade. This door has been deemed a safety hazard by insurance companies and Ms. Clark has had difficulty maintaining homeowners insurance because of it. The installation of a permanent railing across the door has proven to be unsatisfactory to the insurance providers. To remedy the situation Ms. Clark is proposing the construction of an 8' x 16' deck. Since the house sits on the 40' setback line a variance is required. Ms. Clark is seeking access to that side of the house because it is the only location that has an area suitable for a yard for her children. The site is steep and is why the house was located where it is.

Chris Tracey read comments received into the record.

Mr. Tracey asked for explanation of the requirements under 125-45B.

Ms. Clark stated literal enforcement of Sections 125-30E(3) of the Bylaw will involve a substantial hardship, financial or otherwise because, when the house was purchased it included the sliding door; this door has lead to hardship in acquiring homeowners insurance because it is not to building code and could lead to injury. The addition of a permanently fixed rail to the inside of the door to render the door nonfunctional is not sufficient to insurance providers. Replacing the door with a window or wall carries a financial burden equal to that of the proposed structure.

Circumstances relating to soil conditions, shape or topography of the locus or structures especially affecting the Locus or structures but not affecting the Agricultural-Residential District generally, include the fact that the lot is extremely steep and the only buildable area was in the far corner of the lot, where the house is located. The driveway consists of two (2) switchbacks due to the steepness of the topography. The parcel in long and tapers towards the back where the house is located. As a result, the house was located right at the forty (40) foot setback.

The hardship is owing to such circumstances is due to the sloped nature of the property, it is not feasible to build a set of stairs from the existing door since the ground slopes from two (2) feet to four (4) feet. The proposed structure would reduce the number of steps required and provide safer access to the yard.

Ms Clark believes desirable relief may be granted without substantial detriment to the public good in that the proposed structure will be located on the side of the existing house, furthest from any neighbors; and without nullifying or substantially derogating from the intent or purpose of the Bylaw in that the proposed structure will not increase noise, decrease privacy or substantially reduce the open space between the abutting properties.

Rein Pirn, 5 Orchard Hill Road, had no objection to a variance being issued.

Theodore Maxant thinks there are no options that would not require a variance; with no objections from the abutters he suggests issuing the variance.

When asked Ms. Clark did stated the door could be replaced with a widow or a wall, but she would prefer a direct way to get to the back yard. Cost would be similar for either option, a deck or window/wall.

Steve Moeser stated he could support a variance that allowed for a landing with steps, which would be the minimal relief possible. Orville Dodson noted the house already has a deck, and suggested a set of stairs. Possible exits in the event of a fire were detailed.

Mr. Tracey stated Chapter 125-45B(2)(a) states the variance be the minimum giving reasonable relief, which would be a landing with stairs that meets building code; why would you need another deck in addition to what you have. Ms. Clark stated the existing deck has no shade, whereas the new deck would provide a shaded area.

After brief discussion, Theodore Maxant made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Theodore Maxant made a motion to approve the variance as requested by Elizabeth Clark for the addition of a deck within the sideline setback. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Town of Harvard, Zoning Board of Appeals Agenda, dated April 11, 2018

Approve Minutes

- Draft minutes of January 10 and February 7, 2018 prepared by Liz Allard