

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
NOVEMBER 13, 2019
APPROVED: DECEMBER 11, 2019**

Chair Chris Tracey called the meeting to order at 6:18pm in the Hildreth House, 15 Elm Street, Harvard under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Steve Moeser, Theodore Maxant (departed 8:01pm), Orville Dodson and Michael Lawton

Others Present: Liz Allard (Land Use Boards Administrator), Sotir Papalilo (Weston Development Group), Mark O'Hagan (Weston Development Group), Steve Nigzus, George Triantaris, Kelene Blumstein, Prudence Horne and Pat Jennings

Review Waivers and Draft Comprehensive Permit for Craftsman Village Harvard

The Board reviewed the waivers requested for the development of Craftsman Village. Due to revisions made to the overall development plan there are a number of waivers that are no longer necessary, therefore the Board would prefer to remove them from the requested list as oppose to denying them.

The requested waivers to be removed include:

- Chapter 125-29 Lot Size Standards
- Chapter 125-31A Driveways
- Chapter 145-3A Sites Considered Suitable for Sewage Disposal
- Chapter 145-6 Protection of Groundwater Supply

The Board will require additional information from the applicant on the following waivers:

- Chapter 125-25 Permitted Uses in W Districts
- Chapter 125-26 Permitted Uses in WFH Districts
- Chapter 125-30B Floor area ratio
- Chapter 125-30E Setbacks
- Chapter 125-31E Driveway Crossing of W District and inland wetlands
- Chapter 125-32B Flooding and Wetlands
- Chapter 125-D(2) Communal disposal

The Board is not inclined to waive the following requested waivers:

- Chapter 125-39D(1) Screening – Lighting
- Chapter 125-3B Fees

Approve Minutes

Steve Moeser made a motion to approve the minutes of October 30, 2019 as amended. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Variance Hearing – Steve Nigzus & George Triantaris, 2 Littleton Road. Opened at 7:00pm (see page 2 for complete details)

Special Permit Hearing - Steve Nigzus & George Triantaris, 26 Madigan Lane. Opened at 7:30pm (see page 3 for complete details)

Continuation of a Comprehensive Permit Hearing – Craftsman Village Harvard, LLC, Ayer Road (Map 2 Parcels 7.1 & 7.2). Opened at 7:30pm (see page 4 for complete details)

Adjournment

At 8:48pm 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

DOCUMENTS & OTHER EXHIBITS

Town of Harvard, Zoning Board of Appeals Agenda, dated November 13, 2019

Review Waivers and Draft Comprehensive Permit for Craftsman Village Harvard

- List of Requested Exceptions to Local Requirements and Regulations, updated April 23, 2019
- Draft Craftsman Village Comprehensive Permit Findings and Decision, October 2019

DRAFT HARVARD ZONING BOARD OF APPEALS MEETING MINUTES OCTOBER 30, 2019, prepared by Liz Allard

Variance Hearing – Steve Nigzus & George Triantaris, 2 Littleton Road

- Front and Left Side Elevation of proposed garage – 2 Littleton Rd, undated
- Plan of Easement in Harvard, Mass. owned by J&G Realty Trust John P. Hayes, Trustee, Job No. 30257, Plan No. M-6604, detailing hand drawn location of proposed 24 x 34 3 car garage, prepared by David E. Ross Associates, Inc., dated October, 2014
- Certified Plot Plan, 2 Littleton Road, Harvard, Mass., Job #32859, NB 810-10, Job #30257, Plan No. S-14964, prepared by David E. Ross Associates, Inc., dated 10/28/2019
- Letter TO: Harvard Zoning Board of Appeals (ZBA), Steve Nigzus, FR: Mark Bobrowski, RE: Exclusive Easement, 2 Littleton Road, Harvard, dated November 8, 2019
- Email from the Harvard Fire Department, dated October 28, 2019
- Memorandum from Christopher Ryan, AICP, dated October 30, 2019
- Memorandum from Christopher Ryan, AICP, dated Updated to November 12, 2019
- Email in favor of the variance from Kelsey Hoontis, 6 Littleton Road #1, dated October 4, 2019
- Email in favor of the variance from Jennifer Worden, 6 Littleton Road #2, dated October 25, 2019
- Email in favor of the variance from Patricia Hatch, 3 Fairbanks Street, dated October 25, 2019
- Email in favor of the variance from Adam & Lyn Horowitz, 1 Still River Road, dated October 28, 2019
- Email in favor of the variance from Pat Jennings 11 Fairbanks Street, Unit #1, dated October 28, 2019
- Email in favor of the variance from John and Fay Martin, 5 Fairbanks Street, dated November 5, 2019
- Email in favor of the variance from Jessica Beauchemin, 2 Littleton Road, Unit 3, dated November 13, 2019
- Email not in support of the variance, from Tony Saleh, 6 Littleton Road #3, dated November 13, 2019

Special Permit Hearing - Steve Nigzus & George Triantaris, 26 Madigan Lane

- 26 Madigan Lane Proposed Accessory Unit ~1179 sq feet, undated

Continuation of a Comprehensive Permit Hearing – Craftsman Village Harvard, LLC, Ayer Road (Map 2 Parcels 7.1 & 7.2

- List of Requested Exceptions to Local Requirements and Regulations, updated April 23, 2019
- Draft Craftsman Village Comprehensive Permit Findings and Decision, October 2019

Zoning Board of Appeals

Variance Hearing Minutes

Steve Nigzus & George Triantaris, 2 Littleton Road

November 13, 2019

The hearing was opened at 7:00pm by Chair Chris Tracey in the Hildreth House, 15 Elm Street, Harvard, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-45B Variances.

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

Others Present: Liz Allard (Land Use Boards Administrator), Steve Nigzus, George Triantaris, Kelene Blumstein, Prudence Horne and Pat Jennings

This hearing is for a Variance filed by Steve Nigzus & George Triantaris for the reduction of the required setback under Chapter 125-30E on a pre-existing non-conforming lot for the construction of a three-car garage at 2 Littleton Road, Harvard.

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

Steve Nigzus presented the application to the Board. Mr. Nigzus stated he and George Triantaris have completely renovated and updated the building since purchasing it three years ago. The dwelling offers an element of diverse housing in Town Center, but does not offer a garage for the tenants. With the majority of the current tenants being seniors it is a hardship for them to have to move their vehicles during a snow event in order for the parking lot to be plowed. Mr. Nigzus explained additional hardship is owing to the shape of the parcel, which is seven sided. In addition, the placement of the existing dwelling, which was built prior to the adoption of the Protective Bylaw, creates a hardship.

Mr. Nigzus stated the addition of a garage will provide a significant safety improvement for the tenants. Mr. Nigzus reviewed the proposed location of the garage and the request to allow it to be located two-feet from the rear property boundary. The proposed location of the garage will be located primarily within an exclusive use easement on 6 Littleton Road. In his research Mr. Nigzus has determined this parcel is within the 1% category for parcels of this type in Town. Mr. Nigzus sought the advice of Attorney Mark Bobrowski, who evaluated the exclusive use easement. Mr. Nigzus read the letter from Attorney Bobrowski into the record.

When asked, Mr. Nigzus stated the dwelling was converted into three apartments in 1906 and snow removal is currently completed by way of a front end loader and snow blower, with stock piles to the sides of the dwelling.

Mr. Nigzus responded to the specific requirements for obtaining a variance, as stated with the Protective Bylaw, Chapter 125 Section 45B Variances:

- *Section 125-45B(1)(a) Literal enforcement of the Bylaw provisions would involve substantial hardship, financial or otherwise to the petitioner;* response - access to vehicles is a safety issue during the inclement weather for senior citizens.
- *Section 125-45(1)(b) There are circumstances relating to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting the district generally;* response - shape of the parcel, with only 1% similar parcels in Town, and location of the structure creates the hardship.

- *Section 125-45B(1)(d)[1] Desirable relief, ay be granted without substantial detriment to the public good;* response - Improves visual aspect from the town center by removing three cars from public view. The email received by Liz Allard from John and Fay Martin supporting this statement was read into the record.

Steve Moeser had several questions including the requirement to locate a structure a distance that is equal its height from a property line, the over crowding of land and fire safety, with the later two being detailed within *Section 125-1 Purpose* of the Protective Bylaw. Mr. Moeser stated this request runs the risk of violating those very purposes. Mr. Moeser further stated a small lot in the center of town is what you will find in a lot of New England towns, it does not mean you just stuff it in; sounds like a convenience as opposed to a hardship. Mr. Nigzus stated there was previous a large barn on the parcel where the Verizon Telephone building is now.

Patricia Jennings, of 11 Fairbanks Street, stated she has watched the applicants renovate and improve the buildings with the center, in including units at the Harvard Inn. Ms. Jennings is in favor of the request.

Kelene Blumstein, of 2 Littleton Road, expressed the hardship for the tenants, and feels the garage would be a benefit that would eliminate the need for the tenants to have to move their cars during snow events.

Purdy Horne, of 2 Littleton Road, agrees with what others have said and stated having a garage would wonderful.

In regards to fire safety, Mr. Nigzus stated the garage would be constructed of non-combustible materials and include heat detectors.

Chris Tracey asked the Board if they would want advice from Town Counsel in regards to the use and approval of the garage within the exclusive use easement. Members had no issue with that aspect of the proposal.

Mr. Tracey referenced the documents and comments received by others, which included comments from the Fire Department, Director of Community and Economic Development, emails from Kelsey Hoontis, Jennifer Worden, Patricia Hatch, Adam & Lyn Horowitz, Pat Jennings, John and Fay Martin, Jessica Beauchemin, and Tony Saleh.

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.

After a discussion of the evidence presented Theodore Maxant made a motion to grant the variance for the construction of a garage within two feet of the side property line at 2 Littleton Road as detailed on the Certified Plot Plan dated 10/28/2019. Steve Moeser seconded the motion. The vote was 1-2 with Chris Tracey and Steve Moeser opposing the motion.

Signed: _____
Liz Allard, Clerk

Zoning Board of Appeals

Special Permit Hearing Minutes

Steve Nigzus & George Triantaris, 26 Madigan Lane

November 13, 2019

The hearing was opened at 7:15pm by Chair Chris Tracey in the Hildreth House, 15 Elm Street, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-46C Special Permits.

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

Others Present: Liz Allard (Land Use Boards Administrator) and Steve Nigzus

This hearing is for a Special Permit filed on behalf of Steve Nigzus & George Triantaris for the approval of an accessory apartment at 26 Madigan Lane, Harvard.

Due to the continuing discussion of the 7:00pm hearing, Theodore Maxant made a motion to continue the hearing to 7:45pm. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

This continued hearing was opened at 7:45pm by Chair Chris Tracey in the Hildreth House, 15 Elm Street, Harvard under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-46C Special Permits.

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

Steve Nigzus detailed the application before the Board in regards to an accessory apartment. The proposed apartment will be within an existing building on the property. The unit will have a separate entrance, kitchen, bathroom and bathing facilities, and heating and air conditioning. In addition smoke detectors will be hard-wired. There is a separate turnaround and garage space for the tenant. There will be no increase in the existing 6-bedroom septic system installed in 2016. The approximate living space will be 1,179 square feet.

Steve Moeser asked if evidence of the 6-bedroom septic system has been provided. Mr. Nigzus stated it is on file with the Board of Health. Mr. Moeser stated by his calculations the unit is unit is larger than the allowed 1,200 square feet. Mr. Nigzus stated the area calculated does not include the stairwell or closets. Mr. Moeser asked how the tenant would access the unit, if not from the stairwell from the garage area. Mr. Nigzus stated access to the unit could be obtained from the three other exterior doors on the opposite side of structure.

The Board requested the plan be modify to detail the closet and stairwell are not part of the unit. In addition, proof of the 6-bedroom septic system shall be provided.

Steve Moser made a motion to continue the hearing to December 11, 2019 at 7:00pm in the Town Hall, 13 Ayer Road, Harvard. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

Zoning Board of Appeals

Continuation of Comprehensive Permit Hearing Minutes

Craftsman Village Harvard, LLC, Ayer Road (Map 2 Parcels 7.1 and 7.2)

November 13, 2019

The hearing was opened at 7:30pm by Chair Chris Tracey in the Hildreth House, 15 Elm Street Harvard under the Zoning Act, MGL Chapter 40B and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-46F Comprehensive Permits.

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

Others Present: Liz Allard (Land Use Boards Administrator), Sotir Papalilo (Weston Development Group) and Mark O'Hagan (Weston Development Group)

This hearing was continued from October 30, 2019 on a Comprehensive Permit filed on behalf of Craftsman Village Harvard, LLC for the creation of eighteen two-bedroom cottage-style units, consisting of five affordable units along Ayer Road (Map 2 Parcels 7.1 and 7.2), Harvard.

Due to the continuing discussion of the 7:00pm hearing, Michael Lawton made a motion to continue the hearing to 8:00pm. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

This continued hearing was opened at 8:00pm by Chair Chris Tracey in the Hildreth House, 15 Elm Street Harvard under the Zoning Act, MGL Chapter 40B and the Code of the Town of Harvard, Protective Bylaw, Chapter 125-46F Comprehensive Permits.

The Board reviewed its earlier discussion of the requested waivers with Mark O'Hagan and Sotir Papalilo. The both Mr. O'Hagan and Mr. Papalilo were agreeable to the removal of the following waivers:

- Chapter 125-29 Lot Size Standards
- Chapter 125-31A Driveways
- Chapter 145-3A Sites Considered Suitable for Sewage Disposal
- Chapter 145-6 Protection of Groundwater Supply

Mr. O'Hagan and Mr. Papalilo explained the need for the following waivers:

- Chapter 125-25 Permitted Uses in W Districts
- Chapter 125-26 Permitted Uses in WFH Districts
- Chapter 125-30B Floor area ratio
- Chapter 125-31E Driveway Crossing of W District and inland wetlands
- Chapter 125-32B Flooding and Wetlands
- Chapter 125-D(2) Communal disposal

Mr. O'Hagan and Mr. Papalilo will need to provide further information in regards to the need for the following waiver:

- Chapter 125-30E Setbacks

The Board is not inclined to waive the following requested waivers:

- Chapter 125-39D(1) Screening – Lighting
- Chapter 125-3B Fees

The Board discussed the need for the soil testing results before issuing the Comprehensive Permit, as this is a public health and safety issue.

The draft Comprehensive Permit was reviewed with minor revisions to be made.

With additional information necessary to approve the final Comprehensive Permit, Mike Lawton made a motion to continue the hearing to December 11, 2019 at 7:15pm in the Town Hall, 13 Ayer Road, Harvard. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk