

HARVARD ZONING BOARD OF APPEALS
MINUTES OF MEETING
June 27, 2007
APPROVED: November 7, 2007

Chairman Chris Tracey called the meeting to order 7:08pm at in the Town Hall Meeting Room.

Members Present: Chris Tracey, Steve Moser, James DeZutter, Robert Capobianco and Theodore Maxant

Others Present: Mark Lanza, Liz Allard (LUB Admin), Mark & Shiovwwei Hastings, Mary Ellen Jones (Harvard Hillside), William McCurdy, Jack Guswa, Mike Ivas (MHOC), Stephen Ventresca (Nitsch Engin.), Cal Goldsmith (GPR, Inc.), Gerry Welch (MHOC), Kathy Fricchione, John Drummey, Mark Bobrowski, George Dimakarakos (Stamski & McNary) and Paula Johnson

Continuation of a Special Permit Hearing – Mark & Shiovwwei Hastings, 110 Warren Avenue, Map 27 Parcel 13. Opened at 7:08pm

Continuation of a Comprehensive Permit Hearing – Massachusetts Housing Opportunity Corporation, 262/264 Ayer Road, Map 4 Parcels 39 & 40. Opened at 7:43pm

Continuation of a Comprehensive Permit Hearing – Massachusetts Housing Opportunities Corporation, 15 Littleton Road, Map 17D Parcels 14 & 17. Opened at 8:24pm

Adjournment

Chris Tracey made a motion to adjourn the meeting at 9:59pm. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Steve Moeser, Clerk

Harvard Zoning Board of Appeals
Continuation of a Special Permit Hearing Meeting Minutes
Mark & Shiohwoei Hastings, 110 Warren Avenue, Map 27 Parcel 13
June 27, 2007

The public hearing was opened at 7:08pm by Chairman Chris Tracey under MGL Chapter 40A, Section 6 and the Code of the Town of Harvard, the "Protective Bylaw", Chapter 125, Section 3 as amended.

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

Others Present: Mark & Shiohwoei Hastings, Cal Goldsmith (GPR, Inc.) and Liz Allard (LUB Admin)

This hearing was continued from June 13, 2007 for a Special Permit filed on behalf of Mark & Shiohwoei Hastings for the demolition and reconstruction of a pre-existing non-conforming dwelling at 110 Warren Avenue, Harvard.

A new site plan was submitted by Cal Goldsmith, of GPR, Inc. The applicant's representative has received and submitted to the file comments from the Bare Hill Pond Watershed Management Committee (BHPWMC), a copy of the Board of Health permit, a copy of the Order of Conditions issued by the Conservation Commission and the driveway covenant between the applicant and the Conservation Commission. The revision made to the plan was the addition of the 2:1 setback line on each side of the house. This line shows a portion of the existing structure on the north corner is outside the 2:1 setback as well as a four (4) foot section on the northwest corner. The existing shed is within the 2:1 setback will be removed.

At the previous hearing Associate Member Theodore Maxant asked if a buffer zone could be established between this property and the abutting Conservation Land. Chris Tracey asked how much distance would be required to establish the buffer zone. Mr. Goldsmith determined the existing shed is thirty-two (32) feet from the property line and the Conservation Commission as required the hay bale line be the limit of work during and after construction. Mark Hastings was acceptable to a fifteen (15) foot green strip being established between the two properties.

Mr. Tracey believes the driveway covenant is between the applicant and the Conservation Commission and should be finalized by them; however, he would want a condition within the ZBA decisions that requires this covenant be recorded. Mr. Hastings is up to discussing the driveway covenant with the Commission and resolving the issue. Mr. Tracey did find the deed in which the land was gifted to the Town and it contains no specific requirements for use of the land.

Mr. Tracey asked if any of the members had any questions in regards to the comments received by the BHPWMC. The members did not.

Steve Moeser asked in regards to runoff, is the existing driveway being expanded or enlarged and he is assuming it will be asphalt. Mr. Goldsmith stated the driveway is designed to pitch away from the garage, as well as to drain away from the pond. The runoff will then sheet flow toward the pond. There is no plan to pave the driveway and the proposed driveway will be the same square footage as the existing driveway. There will be no additional runoff from the site. The runoff rate will be less, but the amount would be the same. Only the runoff from the driveway will be directed to the pea stone area. The roof runoff will be contained to the drip edge and daylight as shown on the plan. Mr. Moeser asked Mr. Goldsmith if he felt the proposed runoff will be less. Mr. Goldsmith stated yes, because of the recharge areas for the roof run off. Mr. Tracey asked the members if they had any concerns with how the water is being discharged. The members agreed they had no additional concerns.

Mr. Tracey requested the fifteen (15) foot no disturb buffer strip be added to the plan for the file.

Robert Capobianco 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 brief discussion Robert Capobianco made a motion to issue a decision to include the conditions of the driveway covenant being recorded with the Registry of Deeds, a plan be submitted depicting the no disturb area, the Order of Conditions issued by the Conservation Commission on May 30, 2007 be complied with and the recommendations of BHPWMC dated June 13, 2007 be complied with. Mr. Capobianco added the finding that the project will not be more detrimental to the neighborhood. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Steve Moeser, Clerk

Harvard Zoning Board of Appeals
Continuation of a Comprehensive Permit Hearing Meeting Minutes
Massachusetts Housing Opportunity Corporation, 262/264 Ayer Road
Map 4 Parcels 39 & 40
June 27, 2007

The public hearing was opened at 7:43pm by Chairman Chris Tracey under MGL Chapter 40B, Section 20 - 23 and the Code of the Town of Harvard, the "Protective Bylaw", Chapter 125, Section 46F as amended.

Members Present: Chris Tracey, Steve Moeser, Robert Capobianco, Theodore Maxant (associate member) and James DeZutter (associate member)

Others Present: Mark Lanza, Liz Allard (LUB Admin), Mary Ellen Jones (Harvard Hillside), William McCurdy, Jack Guswa, Mike Ivas (MHOC), Stephen Ventresca (Nitsch Engin.), Gerry Welch (MHOC), Kathy Fricchione, John Drummey, Mark Bobrowski, George Dimakarakos (Stamski & McNary) and Paula Johnson

This hearing was continued from June 13, 2007 for a Comprehensive Permit filed on behalf of Massachusetts Housing Opportunities Corporation (MHOC) for eight (8) residential structures each with one (1) affordable unit at 262/264 Ayer Road, Harvard.

Chris Tracey asked the applicant if there was any new information to be submitted this evening. Gerry Welch, of MHOC, stated there was not. The architectural plans were previously submitted and a letter from Ed Marchant dated June 21, 2007 verifying the removal of one building would make the project "uneconomical". It has been determined the commercial building is a box with the details to be decided at a later date and will need to be permitted by Planning Board. Another perk test has not been completed as of yet, the applicant is waiting for the water level to drop.

Jim DeZutter asked about the letter from the Board of Health (BOH) in regards to the hazard waste clean up. A copy of the Response Action Outcome (RAO) Statement issued by the Department of Environmental Protection, Bureau of Waste Site Cleanup, was submitted by the applicant for the file. This document was not sent to the BOH. The requirements of this document will be a condition of the Comprehensive Permit. Mr. Tracey stated the members would need to review the document, and suggested the applicant get the BOH a copy.

Theodore Maxant has concerns with traffic and future problems associated with the site. Mr. Tracey asked why Mr. Maxant felt this way. Mr. Maxant stated because the site is developed to its capacity, stuffed with condos and commercial space. Mr. DeZutter stated it is now up to the Town to start thinking about widening Ayer Road to four lanes. Mr. DeZutter stated this site is not the only contributing factor to all of the accidents on Ayer Road. Mr. Maxant stated not now, but it will. Mr. Tracey stated the ZBA has no

jurisdiction in the roadway. If the applicant wanted to voluntarily contribute funds to the Town for roadway improvements they can.

Mr. Maxant's other issue with the plan is the available parking spaces. It was determined that the required number of spaces have been provided for.

Mr. DeZutter stated with previous Comprehensive Permits the members were given a draft decisions for their review, was that before the hearing was closed. Attorney Lanza stated that it was not.

Steve Moeser asked what the status with the BOH was. Mr. Dimakarakos stated there will be more perk testing and then the septic system plans will be revised and resubmitted to the BOH.

John Drummey, a resident, asked if the feasible of removing one of buildings has been determined. Mr. Tracey stated a letter received June 21, 2007 from Ed Marchant indicates the removal of one of the units would make the project "uneconomical".

Mr. Drummey asked about the requirement of the Department of Housing and Community Development (DHCD) that some of the end units had to be affordable units. Attorney Bobrowski explained DHCD is requiring it, but it is not by law. Attorney Lanza agreed with Attorney Bobrowski's statement and added the State or the ZBA could require there be affordable end units. A condition can also be added requiring that all of DHCD conditions are followed.

Mr. Moeser asked Stephen Ventresca, of Nitsch Engineering, if there is anything he would like clarity on. Mr. Ventresca stated yes, it would be what is going on in the commercial building and will that use increases the capacity of the septic system.

With no further questions or information to be submitted Jim DeZutter made a motion to close the evidentiary portion of the hearing. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

Attorney Bobrowski and the applicant's agreed to allow the ZBA an extension to the required forty (40) day to issue the Comprehensive Permit if the ZBA agreed to work on the Littleton Road Comprehensive Permit first. All in attendance were agreeable.

The members scheduled the first deliberation hearing for the Ayer Road Comprehensive Permit for August 9, 2007 at 7:00pm in the Hildreth House.

Signed: _____
Steve Moeser, Clerk

**Harvard Zoning Board of Appeals
Comprehensive Permit Hearing Meeting Minutes
Massachusetts Housing Opportunity Corporation, 15 Littleton Road, Map 17D
Parcels 14 & 17
June 27, 2007**

The public hearing was opened at 8:24pm by Chairman Chris Tracey under MGL Chapter 40B, Section 20- 23 and the Code of the Town of Harvard, the “Protective Bylaw”, Chapter 125, Section 46F as amended.

Members Present: Chris Tracey, Steve Moeser, Robert Capobianco and Theodore Maxant (associate member)

Others Present: Mark Lanza, Liz Allard (LUB Admin), Mary Ellen Jones (Harvard Hillside), William McCurdy, Jack Guswa, Mike Ivas (MHOC), Stephen Ventresca (Nitsch Engin.), Gerry Welch (MHOC), Kathy Fricchione, John Drummey, Mark Bobrowski, George Dimakarakos (Stamski & McNary) and Paula Johnson

This hearing was continued from June 13, 2007 and is for a Comprehensive Permit filed on behalf of Massachusetts Housing Opportunity Corporation (MHOC) for twelve (12) condominium units with three (3) affordable units at 15 Littleton Road, Harvard.

Chris Tracey asked the applicant if there was any new information to be submitted this evening. Gerry Welch, of MHOC, stated there was not. The outstanding item for Nitsch Engineering was the drainage report which has now been reviewed. Nitsch’s concern was can the culvert under Littleton Road handle the increase flows. Stephen Ventresca, from Nitsch, was present and stated the applicant has demonstrated that runoff will not be increased from the site. Nitsch has requested erosion control barriers be established to protect the wetland across the street as has the Conservation Commission.

Chris Tracey was at a recent meeting with David Swain, the chair of the Water Commission, who had stated it had been expressed that the applicant would be willing to update the water line in the area. The applicant is willing to do so, but would need more details.

The easement for the existing septic system would be a permanent easement.

Mr. Tracey asked why the parcels are being kept as two separate sites. George Dimakarakos, of Stamski & McNary, explained the septic systems would be simpler in this manner. Mr. Dimakarakos explained further using the example of a large subdivision. If they had to do one system it would a more significant cost and a mounded system. A pressure dosage system would have to be done if it was one site as well.

Robert Capobianco asked what the height of the building façade is. Gerry Welch, of MHOC, stated this information can be found in the letter from Stamski & McNary dated May 15, 2007.

Steve Moeser had concerns with the landscaping and lack of information. Mr. Welch explained a plan was submitted to the ZBA, but has not been reviewed by Nitsch.

Mr. Capobianco asked how many guest parking spaces are there. Mr. Dimakarakos stated there are seven (7) spots. Mr. Capobianco stated if he live there and he had a party where will the guest park, in the driveway? Mr. Dimakarakos stated this could happen at any development such as this. Mr. Capobianco asked what if fire equipment has to access the site. Mr. Dimakarakos stated he has spoken with the Fire Chief and he is satisfied with the site lay out.

Mr. Moeser questioned Mr. Ventresca in regards to the recommendation that the retaining wall be reviewed by a structural engineer, is your concern the load on the wall and not any runoff to the existing strata. Mr. Ventresca stated the drainage report indicates the runoff will be equal or less to the existing runoff. Nitsch's concern is the hydrostatic pressure of the retaining wall, which should be reviewed by a structural engineer.

Mr. Moeser asked if concerns about flow onto the abutting property have been addressed. Mr. Dimakarakos stated this issue has been addressed by moving the outfall.

Comments received from the Public Works Director, Rich Nota requested mitigation be done to contain the entire on site drainage. Mr. Dimakarakos stated presently the site is draining without any mitigation. Nitsch at this point does not have any concerns with drainage as designed, even on to Littleton Road.

Nitsch noted the water line has not been tested and should be a condition of the permit. Mr. Moeser wondered if anyone has spoken with the Water Commission. Both Mr. Dimakarakos and Mr. Welch have spoken to them and they have indicated there is enough water for this project. If there is not enough it could be up to the applicant to modify the system. Mr. Capobianco asked if there are any fire hydrants. Mr. Dimakarakos explained there is an existing hydrant and line will be extended to add an additional hydrant past the second driveway.

Mr. Tracey asked as for the waivers will we find clarity within the documentation as to the request waivers. Attorney Bobrowski stated they have essentially done that by submitting the plans and if that changes they would have to come back to the ZBA. Mr. Tracey stated the ZBA has not received any additional comments from any other boards. Attorney Lanza stated waivers should be specifically stated within the permit and not just on the plans.

Mr. Capobianco stated Nitsch recommends close construction supervision for the project, can Nitsch do this review. Mr. Ventresca stated they could, just not the structural review. This could be a condition of the permit, as well as conditioning a construction sequence.

Mr. Moeser asked if there will be a testing company involved to analysis the back fill, drainage, etc. Mr. Dimakarakos stated as part of the Order of Conditions issued by the Conservation Commission they are requiring the fill be tested and the integrity of the compression be tested. The usual practice is for the applicant and general contractors hire the individuals to do the testing. Mr. Tracey asked Nitsch to prepare an appropriate list of what needs to be tested.

The waivers as requested by the applicant to the BOH Bylaw were reviewed. The waiver to 145-3C, the minimum offset distance of ten (10) feet between the primary area and the expansion area, was discussed. The applicant has requested a waiver to this requirement in order to be able to place the expansion trenches in between primary trenches. Mr. Tracey asked what would happen if the ZBA denied the waiver request. Attorney Bobrowski stated the project would be uneconomical. Mr. Capobianco is more concerned about the health to the community down the road. The rules and regulations are there for a reason. Mr. Tracey asked if a Presby system would work better for this site. Mr. Dimakarakos stated no.

The members were accepted the financial review submitted by Ed Marchant.

With no further questions or information to be submitted Steve Moeser made a motion to close the evidentiary portion of the hearing. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

Attorney Bobrowski and the applicant's agreed to allow the ZBA an extension to the required forty (40) day to issue the Comprehensive Permit if the ZBA agreed to work on the Littleton Road Comprehensive Permit first. All in attendance were agreeable.

The members scheduled the first deliberation hearing for the Littleton Road Comprehensive Permit for July 10, 2007 at 7:00pm in the Land Use Office at Town Hall.

Signed: _____
Steve Moeser, Clerk