

HARVARD ZONING BOARD OF APPEALS
MINUTES OF MEETING
April 23, 2008
APPROVED: December 10, 2008

Chairman Chris Tracey called the meeting to order at 7:41pm in the Town Hall Meeting Room

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

Others Present: Liz Allard, Mark Lanza, Gayle Simone (Harvard Hillside), Ed Denmark (Harvard Police Chief), Bob Mignard (Harvard Fire Chief), Judy Gustafson, Barbara Henderson, Sherlie La Pierre, Bob La Pierre, Sally Carrona and Caroline Ready

Continuation of a Comprehensive Permit Hearing – Transformation, Inc., Stow Road (Map 36 Parcel 85 & 86.1). Opened at 7:41pm

Rules & Regulations

The members discussed the need to update the existing rules and regulations under the Protective Bylaw, known as Chapter 135 within the Code of the Town of Harvard. The regulations for Comprehensive permits were edited a few years ago by Town Counsel Mark Lanza. Liz Allard has since reformatted the edited version for the members to review. Attorney Lanza will review that set of regulations once more before the members gives it final review. Mrs. Allard will make revisions to Chapter 135 for the members to review as well.

Approval of Minutes

Robert Capobianco made a motion to approve the minutes of April 9, 2008 as amended. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Steve Moeser made a motion to adjourn the meeting at 9:04pm. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

Zoning Board of Appeals
Continuation of a Comprehensive Permit Hearing Meeting Minutes
Transformations, Inc., Stow Road (Map 36 Parcels 85 & 86.1)
April 23, 2008

This hearing was opened at 7:41pm by Chairman Chris Tracey under M.G.L. Chapter 40B §21-23 in the Town Hall Meeting Room

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

Others Present: Liz Allard, Mark Lanza, Gayle Simone (Harvard Hillside), Ed Denmark (Harvard Police Chief), Bob Mignard (Harvard Fire Chief), Judy Gustafson, Barbara Henderson, Sherlie La Pierre, Bob La Pierre, Sally Carrona and Caroline Ready

This hearing was continued from February 27, 2008 on a Comprehensive Permit filed on behalf of Transformation, Inc. for the construction of twelve (12) single-family detached and twelve (12) condominiums as duplex and triplex homeownership units on Stow Road (Map 36 Parcel 85 & 86.1), Harvard.

The Applicant was not present, but the members decided to move forward with the hearing since both the Fire and Police Chiefs were in attendance this evening.

Chief of Police Ed Denmark was present and submitted a letter dated April 23, 2008 to the Board. Chief Denmark stated that nothing within the application jumped out at him. He has noted that the road is used greatly for recreation, walking, biking and running. Additional traffic on this road will make those used more difficult. Chief Denmark also noted that the application proposes to narrow roadway within the subdivision down to twenty (20) feet. Chief Denmark is concerned with during the winter months when the road is plowed a significant part of the roadway could be lost to snow banks. By keeping the required widths you can increase the likelihood that two emergency vehicles could pass by one another maintaining an evacuation route for residents without interfering with emergency vehicles. Over all the, Police Chief would recommend staying with the Harvard Protective Bylaw which requires a twenty-four (24) feet roadway. Additional with the length of the proposed roadway and the proposal for a school bus stop, Chief Denmark would like to see lighting on the roadway for safety sake.

Chris Tracey asked Attorney Lanza if the application could be denied based on density increasing traffic in such a way that would create an issue for use of the road by others than traffic, would this be upheld by the Housing Appeals Committee (HAC). Attorney Lanza stated the HAC would not take that into consideration. If the road was inadequate then it would be on the Town to improve the roadway to meet the applicants needs. Attorney Lanza added that speed bumps within the road way may not be acceptable due to liability, but they are used in other Towns with proper signage, and are known as speed humps.

Fire Chief Bob Mignard sent a letter date January 22, 2008 that expressed his concerns. The existing fire pond has been poorly maintained and is not completely useful currently. Would like to see each unit have its own sprinkler, as well as the installation of the proposed cistern. The biggest problem Chief Mignard has with this location is access. The proposed roadway is long and narrow. Chief Mignard stated one of the units has a sixteen (16) foot wide driveway and with snow it will be real tough to get into that location with emergency equipment. Once multiple fire apparatus was in there it would be difficult to maneuver. Chief Mignard stated the elevation change of ten percent (10%) would be a challenge for the emergency equipment if there is snow on the ground.

Robert Capobianco asked Attorney Lanza these are all safety issues, how do make it so these reports hold up in court. Attorney Lanza stated the written communications should be sufficient. Attorney Lanza stated it would be helpful to find that that grade is too steep for emergency equipment. These concerns should be addressed by the consultants.

Chief Mignard questioned the use of porous pavement, which would be a question for Nitsch Engineering. Steve Moeser stated he believes the new lot lines will create a violation of fire codes with the set backs to lot lines and would change the requirements for the wall types to be used on the structures.

Judy Gustafson, an abutter to the property, stated that when she comes out of her driveway she has to be careful of pedestrians who are difficult to see because the roadway is very narrow in that area.

Barbara Henderson, an abutter to the property, asked if the applicant is going to put street lights up on the proposed roadway then they should be put on Stow Road as well. Mr. Tracey suggested that comment should be brought to the Board of Selectmen.

Ms. Gustafson stated at the last meeting we discussed the noise that would be created by removing trees at the rear of the property from Route 495. A request was made for a sound study to be conducted. Mr. Tracey does not think if we required some type of sound barrier it may not stand up in an appeal. If the applicant can make a case that it would make the project uneconomic then it most likely would be appealed, but that may not be the case.

Sally Corona, an abutter to the property, is assuming the roadway will be a private road and individuals will not be able to walk on it. Mr. Tracey stated he is not certain what the roadway be considered. The Board will need to ask the applicant if he will allow access. Ms. Corona asked if it is a private road how will the use of pesticides or herbicides be regulated. Mr. Tracey stated this is an issue for the Conservation Commission.

The members asked Attorney Lanza if the requested waivers should be specific as to exactly which parts of the Bylaws the applicant is requesting a waiver from and which lot/area they apply to. Attorney Lanza stated that they should.

Bob La Pierre, an abutter to the property, asked in regards to drainage the applicant had stated that sedimentation fore bays would be installed; Mr La Pierre would like to be certain these basins will be maintain. Mr. La Pierre added that sound was bought up at the all boards meeting last spring. The Housing partnership sent a letter to the State addressing the residents concerns after that meeting. The return letter stated all of these issues should be addressed. Mr. La Pierre stated that the issue of sound was not in the letter to the State.

Mr. Tracey reviewed the items the Board will be looking for from the applicant at the next meeting. Those items are:

- The ZBA wants clarification of the waives, what specific sections of the bylaws are you asking the waiver for and where does it apply on the plan.
- The abutters have expressed concern of noise at several meetings, would you be agreeable to a sound study to understand the current decibel level of Route 495.
- Are there any plans for mitigation in regards to noise of Route 495 for the inhabitants of this project or the abutters.
- Will there be public access on the driveway and access to the Harvard Conservation Trust abutting the property to the rear.
- The ZBA requested the Soil & Perk information referred to in Appendix C, as well as the map mentioned in the narrative
- The ZBA would like a plan showing the cross section of roadway and grades
- Both Fire & Police (see attached) have indicated the driveway should be expanded in width; the ZBA would like to see the plan amended showing that expansion.

Mr. Tracey read into the record a letter received a letter from the Municipal Affordable Housing Trust Fund dated March 17, 2008 in regards to the “buy-down” program that Committee has offered to the Applicant.

Robert Capobianco made a motion to continue the hearing to May 21, 2008 at 7:30pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk