

**HARVARD ZONING BOARD OF APPEALS
MINUTES OF MEETING
June 25, 2008
APPROVED: December 10, 2008**

Chairman Chris Tracey called the meeting to order at 7:34pm 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, Carter Scott, John Cournoyer (MCI), Sherlie La Pierre, Sally Carrona, Bob La Pierre, Judy Gustafson, Steve Ventresca (Nitsch Engin.), Warren Henderson, Barbara Henderson, Lynn Adler and Tom Philippou (BOH)

Renewal of a Special Permit Hearing – MCI Communications Service, Depot Road (Map 7 Parcel 1024). Opened at 7:34pm

Continuation of a Comprehensive Permit Hearing – Transformation, Inc., Stow Road (Map 36 Parcel 85 & 86.1). Opened at 8:04pm

Rules & Regulations

With 760 CMR 56 recently revised the ZBA will need to adapt those revisions to its current comprehensive permit regulations. Attorney Lanza will review what the ZBA currently has written.

Adjournment

Steve Moeser made a motion to adjourn the meeting at 10:06pm. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

**Zoning Board of Appeals
Renewal of a Special Permit Hearing Meeting Minutes
MCI Telecommunications, Depot Road (Map 7 Parcel 1024)
June 25, 2008**

This hearing was opened at 7:34pm by Chairman Chris Tracey under M.G.L. Chapter 40A, the Zoning Act and Chapter 125, the Protective Bylaw under the Code of the Town of Harvard

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

Others Present: Liz Allard (LUB Admin) and John Cournoyer (MCI)

This hearing is for the Renewal of a Special Permit filed on behalf of MCI Telecommunications Service for an unmanned fiber optic regenerator and appurtenant structure at the end of Depot Road (Map 7 Parcel 1024), Harvard.

John Cournoyer was present to represent MCI Telecommunications. Mr. Cournoyer stated the site has had no changes in its use since the Special Permit was renewed in 2003. Chris Tracey asked if the property was leased from Boston and Maine (B&M) Railroad. Mr. Cournoyer stated it was and there is an active lease agreement between MCI and Boston and Maine Railroad. Mr. Cournoyer was asked if there is a plan on how long the fiber optic system would be in place at that location. Mr. Cournoyer stated for as long as it is needed. The lease agreement will be provided in writing for the file. The members were concerned about personal from the railroad not being present when propane is being delivered across the railroad tracks. It was suggested that a flagger be required when propane is delivered. Mr. Cournoyer will communicate with B&M to ensure certain safety precautions are maintained. Comments received from Planning Board, the Building Inspector, Board of Health and Conservation Commission were read into the record.

Robert Capobianco made a motion to close the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

After a brief discussion Steve Moeser made a motion to issue a decision that contains the same conditions of the previous permit, eliminating the condition as it refers to the landscaping. In addition, a condition will be added that requires personal from Boston and Maine Railroad be present when a propane delivery is made to the property. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion, 3-0.

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)
June 25, 2008

This hearing was opened at 8:04pm 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, Carter Scott, Sherlie La Pierre, Sally Carrona, Bob La Pierre, Judy Gustafson, Steve Ventresca (Nitsch Engin.), Warren Henderson, Barbara Henderson, Lynn Adler and Tom Philippou (BOH)

This hearing was continued from May 28, 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.

A revised letter has been received from Nitsch Engineering and from the Board of Health (BOH). Carter Scott stated Jeff Richards of Meridian Associates was present this evening. Mr. Scott stated changes and revisions have been made to the plan and revised plans were submitted. The waivers have been flushed out and new request for waivers were submitted. The deep hole and perk test data was submitted for the file and the BOH to review.

Sheet one shows the deep hole testing locations. The members requested an overlay of the structures and the deep hole test. Chris Tracey asked what it means by “technically feasible”. It was explained that under the Department of Environmental Protection (DEP) guidelines for Storm Water Management that there is enough separation from ground water and the inverts in and out of the system are designed correctly. Mr. Tracey asked Steve Ventresca, of Nitsch Engineering, in order to be technically feasible you need a certain amount of information. Mr. Ventresca stated yes.

Mr. Tracey stated technically feasible issues are not issues that the ZBA can base its approval on. In some cases it is necessary in a determination of issuing a waiver.

Mr. Scott stated the revised plans looked at solving several issues. First lowering the top portion of the roadway by lowering the grades brought the roadway down to an 8.5% slope. The septic system on Lot 5 has been redesigned. An additional twenty-six (26) guest parking spaces have been provided. The thirty (30) foot minimum distance between buildings has been achieved, which caused things to be moved around on Lot 2 and eliminated some of the garages of the attached units. The affordable units have been redistributed and reduced the number from ten (10) to eight (8) affordable units. Each septic system shows the number of bedrooms it is designed for. Storm drains have been detailed. A detail of the bio retention cell has been added to the plan. Because the Fire

Department had concerns of getting a fire truck and an ambulance in at the same time, grass fillers have been added to the plan.

Mr. Scott invited the ZBA, members of the public and other Town Boards and Officials to come and visit his Townsend location. Mr. Scott also requested the hearings be allowed to be extended an additional sixty (60) days.

The members agreed that a lot of information was received this evening and will need time to be reviewed. The Board agreed that July 23rd would be suitable time frame to get the new information reviewed by themselves and others.

Tom Philippou read the letter from the Board of Health (BOH) submitted this evening. One of the biggest issues the BOH has with project is how the condominium documents will address potential maintenance issues for the sewage disposal systems.

It was requested that the ZBA do not grant the waivers requested if the information is not clear and require that the applicant return to the ZBA when the information is available. It was noted that the new site plan does reflect the requested waivers for the BOH. Mr. Tracey suggested that if the waivers and revised plans are discussed at other meetings that the applicant or his representative attend those meetings.

The need for a traffic study was discussed. Mr. Scott stated that it is clear under the Town of Harvard's regulations for Comprehensive Permits that a traffic study is not needed if the project is under twenty-five (25) units. The members agreed that a review of the submitted traffic study could not be required.

Mr. Philippou wanted to know if there are financial requirements to have a fall back position to be certain that the project is completed. Mr. Philippou was informed that security would be required for certain items be complete such as roadways and landscaping.

Bob La Pierre questioned the letter submitted by the BOH, if the lots are going to be sold off to different developers, how does that affect the 20% profit. The ZBA conditions the permit to have not only audits completed, but to also have audits of the auditor and that the 20% is on the entire project. A monitoring agent will monitor it from the beginning to the end. Both affordability and profitable are monitored.

Judy Gustafson asked if the proforma will be done on the next buyer at hand. Mr. Tracey explained the proforma is for the entire project and would bind any owner by the same conditions that the original applicant was.

With a lot of new information provided this evening Steve Moeser made a motion to accept the request to extend the hearings sixty (60) days beyond the required 180 days and to continue the hearing to July 23, 2008 at 7:30pm. Robert Capobianco seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk