

**Harvard Zoning Board of Appeals
Meeting Minutes
September 30, 2008
APPROVED: DECEMBER 10, 2008**

Chairman Christopher Tracey in the Town Hall meeting room opened the meeting at 8:00pm

Member Present: Christopher Tracey, Steve Moeser, Robert Capobianco and Orville Dodson

Others Present: Liz Allard, Mark Lanza, Bob La Pierre, Sherlie La Pierre, Warren Henderson, Doug Thornton and Sally Carrona

Deliberation of the Comprehensive Permit for Transformations, Inc, Stow Road
Robert Capobianco stated denying the permit would not be in the best interest of the Town. Steve Moeser stated he wants to determine if the applicant is in the ball park with all of these wells and septic systems, before he gets to a point of knowing whether or not to approve or deny. Town Counsel Mark Lanza stated those are probably the most radiant issues over all. Chris Tracey asked if the permit can be conditioned to be approved subject to the issuance of a Public Water Supply (PWS). Attorney Lanza stated yes, it can be stated that the applicant must comply with all of the Department of Environmental Protection (DEP) regulations in regards to a PWS. It appears to the members that the applicant's primary reason to separate the parcel into five lots is to circumvent DEP regulations in regards to a PWS or the use of a circulating sand filter for septic.

The members agreed that the granting of a permit should be done with substantial conditions in regards to health and safety, the requested waivers and other Town Boards comments.

Health concerns would include the wells and the septic systems. Attorney Lanza stated DEP has extensive regulations for PWS when multiply people are using the system. Public in this context is multiple users. A PWS is required when there are at least fifteen (15) water connections or at least twenty-five (25) individuals using the supply more than sixty (60) days a year. The applicant stated that the water quality is better out of a private well rather than a PWS. Attorney Lanza pointed out that at the time of the issuance of the permit the lots are all within the same ownership, constituting a PWS. Mr. Tracey stated the applicant previously stated that the PWS could fit on then plan, but it would increase cost and time. The burden will be on the applicant to show that that condition would make the project uneconomic. The applicant provided no evidence that he could not meet the requirements of DEP for PWS. The only benefit or purpose to the subdivision of the land is to circumvent the PWS and the regulations of Title V.

In regards to the roadway, the ZBA has the authority to lay it out as a public way, but they cannot accept it as a public way. That would be the acceptance of real estate and ZBA cannot do that.

The members reviewed the following individual waiver requested from information submitted on August 11, 2008 by the applicant:

- §125-9 Multiple residential use; this waiver is acceptable to the members
- §125-15 Earthmoving; the members determine the applicant had made no request for relief and no discussion was required
- §125-21 Permitted uses in the AR District; this waiver was acceptable to the members
- §125-26 Permitted uses in WFH Districts; the applicant was asking for a finding by the ZBA, no relief requested
- §125-29 Lot Size Standards; the members were acceptable to this waiver
- § 125-30 Land-structure relations; the members were acceptable to this waiver
- §125-30B.Floor area ratio; final plan must meet the requirements of the Fire Department; E) Setbacks; the members were acceptable to this waiver
- §125-31 Driveways; the ZBA is the Special Granting Authority, the members agreed to condition the permit that the applicant seek and obtaining all waivers required to execute the plan; as for §125-31B(3) the members agreed not grant this waiver
- §125-32 Sewage B & C; the members are acceptable to this waiver as long as the systems are in compliance with Title V, the members agreed to denied §125-31D
- §125-38 Site Plan; no waiver requested
- §125-39 Site Standards; no waiver requested
- §145 members will consider waivers once compliance is met under other conditions

Further discussion on this permit will continue on October 1, 2008 at 7:45pm in the Town Hall Meeting Room.

Adjournment

Robert Capobianco made a motion to adjourn the meeting at 10:00pm. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk