

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
JULY 17, 2012
APPROVED: September 11, 2012**

Chairman Chris Tracey opened the meeting at 7:33pm in the Town Hall Meeting Room under Chapter 40A and the Code of the Town of Harvard Chapter 125

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

Others Present: Liz Allard (LUB Admin), Elaine Davis-Curll, Dan Wolfe (Ross Associates), Leon Smith, Daniel Calenda

Continuation of a Modification of a Comprehensive Permit Hearing – PRM Capital, LLC, Trail Ridge Way. Opened at 7:33pm

Approval of Minutes

Robert Capobianco made a motion to approve the minutes of May 23 and June 12, 2012 as amended. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Special Permit Hearing – Leon Smith, 345 Ayer Road. Opened at 8:04pm

Discuss Finding under Chapter 125-4 Existing Lots for 94 Tahanto Trail

Chris Tracey explained to the members that he has spent numerous hours over the last few weeks corresponding with Town Counsel and meeting with the Building Commission to try and understand the difference between a "Finding" and the need to file for a Special Permit. Under Massachusetts General Law (MGL) Chapter 40A Section 6, a "Pre-existing non-conforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by special permit granting authority....". Mr. Tracey was having difficulty understanding under the Town's Protective Bylaw what it is that the Board needs to do when an applicant with a pre-existing non-conforming lot wants to modify a structure that does and will continue to meet the current setback requirements of the Protective Bylaw. Chapter 125-4 Existing lots, does not state a Special Permit is needed. Town Counsel has confirmed that changes can be made to a non-conforming lot, but if those changes intensifying the non-conformity then abutters should have the ability to submit input, therefore a Special Permit should be required.

For tonight's discussion, Dan Wolfe, of Ross Associates, was present to determine what it is his client needs for an addition to his conforming structure on a pre-existing non-conforming lot at 94 Tahanto Trail. Steve Moeser asked if the proposed addition will be one story. Mr. Wolfe stated the addition will consist of a drive under garage with a room above; the roof line will jut out slightly from old to new. Mr. Wolfe is looking for a finding that will allow for the addition by right.

Robert Capobianco made a motion to issue a finding for Daniel Calenda, 94 Tahanto Trail, with the findings to include the addition will not intensifying the non-conformity of the existing lot and the conforming structure will continue to be conforming with the existing Protective Bylaw, therefore the addition is allowed by right. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

Robert Capobianco made a motion to adjourn the meeting at 9:00pm. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____ Liz Allard, Clerk

Zoning Board of Appeals

Continuation of a Modification of a Comprehensive Permit Hearing Meeting Minutes

PRM Capital, LLC, Trail Ridge Way

July 17, 2012

The hearing was opened at 7:33pm by Chairman Chris Tracey in the Town Hall Meeting Room under Chapter 40A and the Code of the Town of Harvard Chapter 125

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

Others Present: Liz Allard (LUB Admin) and Elaine Davis-Curll

This hearing was continued from May 23, 2012 for a request to modify a Comprehensive Permit filed on behalf of PRM Capital, LLC to allow the remaining thirty-two (32) units to be constructed as duplexes rather than quadplexes at the development known as Trail Ridge, Harvard.

Chris Tracey asked Elaine Davis-Curll, who was present to represent PRM Capital, LLC, if copies of the modified plans had been submitted to the Land Use Administrator for distribution to other Boards and Committees for their comments. Ms. Davis-Curll stated she had not as she had hoped that this evening she would be able to obtain the Boards blessing of the modified plan so they may move forward with the final engineered plans. Mr. Tracey stated that the Board had already done so in April and have been awaiting the revised engineered and architectural plans to distribute for comments. Ms. Davis-Curll stated she and Dennis Ring had misunderstood what it was the Board was looking for; she thought the Board wanted to review the architectural plans prior to moving forward with final engineered plans. Robert Capobianco asked if there would be any modifications to the site due to the change from quadplexes to duplexes. Ms. Davis-Curll stated for the most part no; minor grading will be needed into the existing slope to accommodate one of the buildings. Steve Moeser requested the submittal of a color plan that will show the proposed modifications overlaid the original approved plan. Mr. Capobianco asked if the house designs change. Ms. Davis-Curll stated they have slightly. Mr. Moeser stated the Board will need to see those designs as well.

Liz Allard stated the extension given to the required thirty (30) days to finalize a modification under a Comprehensive Permit has lapsed. Ms. Davis-Curll was amenable to an extending the time frame an additional hundred and twenty (120) days. Mr. Tracey stated the existing escrow account has a balance of \$2589.36; a rough estimate from the Boards consulting engineer was \$3500.00. Mr. Tracey requested an additional \$2500.00 be deposited into the escrow account for expenses associated with the review of the modified plan. Ms. Davis-Curll agreed to submit the revised plans on or before September 1st for review at the October meeting. ,

Robert Capobianco made a motion to continue the hearing to October 10, 2012 at 7:30pm in the Town Hall Meeting Room. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

Zoning Board of Appeals

Special Permit Hearing Meeting Minutes

Leon Smith, 345 Ayer Road

July 17, 2012

The hearing was opened at 8:04pm by Chairman Chris Tracey in the Town Hall Meeting Room under Chapter 40A and the Code of the Town of Harvard Chapter 125

Members Present: Chris Tracey, Steve Moser, Robert Capobianco, Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin) and Leon Smith

This hearing is for a Special Permit filed on behalf of Leon Smith for the addition of a garage to a pre-existing non-conforming structure and lot at 345 Ayer Road, Harvard,

Leon Smith was present to discuss his request for the addition of a garage to a pre-existing non-conforming structure on a non-conforming lot. Mr. Smith explained he has been working on rehabilitating the structure for a number of years and has finally gotten to the construction of the garage. During the design phase of the garage Mr. Smith opted to connect the garage to the existing structure, which is non-conforming. The foundation for the garage was installed about two years ago. In an earlier discussion this evening the Board was grappling with the difference between the Boards right to issue a "finding" and the need to file for a Special Permit. Using this application as an example, Chris Tracey explained the addition of the garage would not be intensify the non-conformity by itself, however the addition of the bulkhead would. To not complicate the matter at hand it was determined that this addition would need a Special Permit for that is what the Building Commission would be seeking from the applicant in order to issue a building permit. Steve Moeser asked what would be stored in the garage. Mr. Smith stated cars and his commercial truck. Mr. Tracey read comments received by the Building Commissioner and the Conservation Commission into the record.

With no further questions or comments Robert Capobianco made motion to close the evidentiary portion of the meeting. 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 Special Permit to Leon Smith for the addition of a garage to a pre-existing non-conforming structure on a pre-existing non-conforming lot. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Special Permit Hearing – Leon Smith, 345 Ayer Road

- ❖ Certified Inspection Plan, 345 Ayer Road, Harvard, Mass, prepared by David E. Ross Associates, Inc., Job No. 24297, Plan No. S-11448-B, dated June 6, 2012
- ❖ Memo from the ZBA to the Building Commissioner/Zoning Enforcement Officer which includes a written statement from Gabe Vellante, Building Commissioner, dated June 25, 2012
- ❖ Letter from the Conservation Commission, dated June 25, 2012

Discuss Finding under Chapter 125-4 Existing Lots for 94 Tahanto Trail

- ❖ Town of Harvard Assessor's Map 26, revised through 1-1-02
- ❖ Black and White 11x17 aerial photo of 94 Tahanto Trail and abutting properties, undated
- ❖ Site Plan in Harvard, Mass., prepared for Daniel Calenda, prepared by David E. Ross Associates, Inc., Job No. 28052, Plan No. L-11876, dated June 2012