

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
MAY 13, 2015  
APPROVED: JULY 8, 2015**

Chairman Chris Tracey opened the meeting at 7:33pm in the Hapgood Room at 7 Fairbank Street under the Zoning Act Chapter 40A and the Code of the Town of Harvard Chapter 125

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

**Others Present:** Liz Allard (LUB Admin), Gary Shepard (Ross Assoc.), Deborah M. Johnson, Andrew L. Johnson, Jaylyn Joss, Roy Pastor, Cliff Tomassian, Curtis Plante and Kristin Sahagian

**Continuation of a Variance Hearing – The Homescout, LLC, Cleave Hill Road (Map 18 Parcel 45).** Opened at 7:33pm (for detailed minutes see page 2)

**Continuation of a Special Permit Hearing – Clifford Tomassian, 50 Turner Lane.** Opened at 8:01pm (for detailed minutes see page 4)

**Variance Hearing – Curtis Plante, 16 South Shaker Road.** Opened at 8:05pm (for detailed minutes see page 5)

**Approve Minutes**

Robert Capobianco made a motion to approve the minutes of March 11 and April 8, 2015 as amended. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

**Adjournment**

At 8:51pm Robert Capobianco made a motion to adjourn the meeting. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Liz Allard, Clerk

## **Zoning Board of Appeals**

### **Continuation of a Variance Hearing Meeting Minutes**

#### **The Homescout, LLC, Cleaves Hill Road (Map 18 Parcel 45)**

**May 13, 2015**

The hearing was opened at 7:33pm by Chairman Chris Tracey in the Hapgood Room at 7 Fairbank Street under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

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

**Others Present:** Liz Allard (LUB Admin), Gary Shepard (Ross Assoc), Deborah M. Johnson, Andrew L. Johnson and Jaylyn Joss

This hearing was continued from April 8, 2015 for a Variance for the construction of a single family dwelling within the setback from the center line of the roadway on Cleaves Hill Road (Map 18 Parcel 45), Harvard.

Gary Shepard, Project Manager from Ross Associates, was present to represent the applicant. Mr. Shepard submitted revised plans based on the comments provided at the previous hearing. Mr. Shepard explained that in order to locate the house on the site to be in conformance with the 75' setback from the centerline of the roadway would require the construction of six retaining walls, 110' to 120' in length with a maximum height of 4', which would increase the development costs by \$45,000 to \$55,000. A second option is to locate the house off of Littleton County Road, which would require blasting with a cut into the ledge with a maximum depth of 30'. This option would increase development cost by \$55,000 to \$65,000. Mr. Shepard stated both options have significant impacts to the cost of the development of the property, therefore creating a financial hardship.

Robert Capobianco asked what would be the cost to develop the property if the variance is granted. Shepard did not have an actual number, but estimated in the area of \$400,000.

The revised plan shows the entire site, which includes existing ledge outcroppings. A topographic plan detailing the available locations on the site for the construction of a dwelling was submitted.

Theodore Maxant asked about the tax assessment as a building lot. The property owner, Jaylyn Joss, stated she pays an estimated \$4000 annually in taxes for the property.

Deborah M. Johnson, an abutter, asked why the setback is 75'. The members stated that that distance is what has been approved by Town Meeting as an acceptable distance from the centerline of the roadway.

Andrew L. Johnson, an abutter, stated it seems to him the reasoning for a variance as presented by the applicant's representative is about money. Mr. Johnson does not see that as a hardship; the only hardship is that of the size of the house. Mr. Johnson stated as a community we have created a plan for development and we should not allow for destruction of that plan parcel by parcel.

Orville Dodson asked why not reduce the width of the house and increase the length. Mr. Shepard stated that would give you an oddly shaped house. In addition, the relief that is being sought is a matter of 18'.

Mr. Shepard stated the required blasting to locate the house off of Littleton County Road would be a determinant to the neighborhood; not to mention it would create a the carved out area of ledge that would be much less desirable to the neighborhood. Mr. Shepard stated as proposed the dwelling is much more conventional then what would be developed off of Littleton County Road.

Mr. Maxant stated he has issue with the Town collecting taxes for a building lot and then not being able to build on that lot due to zoning constraints; he would not be uncomfortable with a variance being issued.

Mr. Shepard pointed out the existing dwellings in the area that are not compliant with the 75' setback as well.

After a brief discussion Robert Capobianco made a motion to close the evidentiary portion of the hearing. Orville Dodson seconded the motion.

Members discussed the requirements under a variance that an applicant must over come in order to obtain a variance. Mr. Capobianco believes the amount of money that would be needed to conform to the setback could be a financial hardship; the topography of the site in regards to slope and ledge are also prevalent on the site and make development difficult. Mr. Capobianco feels if the variance is granted the development proposed would be the least obtrusive to the neighborhood; the other proposed locations for the dwelling would require the clearing of a larger amount of trees, and extensive blasting, which would create a stone wall or a terrace wall system behind the dwelling. Mr. Maxant had no additional comments. Mike Lawton stated that when you take 75' setback and apply it to the entire perimeter of the property you would not be able to build a house without blasting, thereby creating a detriment to the neighborhood. Orville Dodson stated would that make the lot unbuildable; yet it has been taxed as buildable. Mr. Dodson does believe the footprint of the house could be reduced to reduce the offset more then 18'. Mr. Capobianco stated since there are a number of existing dwellings that are as close, if not closer to the road, that this development is not a detriment to the neighborhood.

With no further comments, Robert Capobianco made a motion to grant a variance based on the information provide. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Liz Allard, Clerk

**Zoning Board of Appeals**

**Continuation of a Special Permit Hearing Meeting Minutes**

**Clifford Tomassian, 50 Turner Lane**

**May 13, 2015**

The hearing was opened at 8:01pm by Chairman Chris Tracey in the Hapgood Room at 7 Fairbank Street under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

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

**Others Present:** Liz Allard (LUB Admin), Roy Pastor and Cliff Tomassian

This hearing was continued from April 8, 2015 for a Special Permit filed on behalf of Clifford Tomassian for the conversion of a seasonal residence to year-round residence at 50 Turner Lane, Harvard.

Roy Pastor, as legal representation for Cliff Tomassian, requested the hearing be continued to July 8<sup>th</sup> at 7:30pm. Robert Capobianco made a motion to continue the hearing as requested in the Hapgood Room at 7 Fairbank Street. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Mr. Pastor will submit a request to extend the allowed time in which the Board has to make a decision as detailed with MGL Chapter 40A.

Signed: \_\_\_\_\_  
Liz Allard, Clerk

## **Zoning Board of Appeals**

### **Variance Hearing Meeting Minutes**

#### **Curtis Plante, 16 South Shaker Road**

**May 13, 2015**

The hearing was opened at 8:05pm by Chairman Chris Tracey in the Hapgood Room at 7 Fairbank Street under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, the Protective Bylaw, Chapter 125

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

**Others Present:** Liz Allard (LUB Admin), Curtis Plante and Kristin Sahagian

This hearing is for a Variance filed by Curtis Plante for the addition of an overhang/roof within the 75' setback from the centerline of the right-of-way at 16 South Shaker Road, Harvard.

Curtis Plante was present along with the property owner, Kristin Sahagian, to request a variance to add a front entry and porch with a roof, which is proposed to be 70.9' from the centerline of the roadway rather than the required 75'. Mr. Plante explained the lot and existing structure are currently conforming. There is no hardship relative to soil; the hardship is that it is a pre-existing structure, that when built, was allowed to be closer to the centerline of the roadway than currently is allowed.

Theodore Maxant stated as he sees it the zoning created the hardship by changing the setback from 40' to 75'. The house now sits 75.4' from the road. Maxant added when the provision was added to the bylaw it was meant to be enforced on new construction. Mr. Plante stated this is a hardship the property owner can not overcome.

Members and Mr. Curtis discussed whether or not the front steps on the dwelling are considered part of the structure, which would make the dwelling nonconforming and allow for the applicant to apply for a Special Permit rather than a variance.

Chris Tracey does not think there is enough evidence for a variance; he is grappling with the steps being a structure, therefore making the structure non-conforming.

Kristin Sahagian, the property owner, explained her perceived hardship is that her job requires her to wear a suit each day and going out into the weather to get to her car in the morning can be trying at times. She does not have the opportunity to change her clothing once she arrives at work, therefore is seeking to construct a covered porch at the front of her home. Liz Allard asked if the attached garage under construction has an entrance into the home. Ms. Sahagian stated it will, however guest visiting will not be covered.

Robert Capobianco agreed that there is no compliance with the variance requirements.

After a brief discussion with the property owner, Mr. Plante requested the application be withdrawn without prejudice and that he be granted the ability only pay the difference between a variance and a special permit should he be able to apply for a special permit.

Robert Capobianco made a motion to allow for the withdrawal of the application without prejudice and allow for the applicant only pay a fee in the amount of \$55 should he be able to apply for a

special permit. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Signed: \_\_\_\_\_  
Liz Allard, Clerk

### **DOCUMENTS & OTHER EXHIBITS**

#### **Continuation of a Variance Hearing – The Homescout, LLC, Cleave Hill Road (Map 18 Parcel 45)**

- Topographic Plan, Cleaves Hill Road, Map 18 Parcel 45, Harvard, Massachusetts, designed for Homescout, LLC, prepared by David E. Ross Associates, Inc., dated May 2015
- Two untitled plans showing conforming locations, received May 13, 2015