

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
JULY 8, 2015
APPROVED: AUGUST 12, 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, Steve Moeser, Robert Capobianco, Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin), Rob Oliva (Ross Assoc.), Cliff Tomassian, Dan Wolfe (Ross Assoc.), Robert Hughes, John Finn, Joe and Maureen Pettirossi

Continuation of a Special Permit Hearing – Clifford Tomassian, 50 Turner Lane. Opened at 7:30pm (for detailed minutes see page 2)

Continuation of a Special Permit Hearing – Maureen Pettirossi, 64 Warren Avenue. Opened at 7:40pm (for detailed minutes see page 3)

Special Permit Hearing – John Finn, 44 Peninsula Road. Opened at 8:00pm (for detailed minutes see page 5)

At 9:17pm Theodore Maxant left the meeting.

Approve Minutes

Robert Capobianco made a motion to approve the minutes of May 13th and June 10th, 2015 as amended. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Board of Health Request for Seasonal Conversion Guidance Document

Liz Allard had previously distributed a letter from the Board of Health (BOH) on a request for a guidance document for residents as it pertains to converting a structure from seasonal to year-round use. The BOH is concerned with being able to build new houses on nonconforming lots that would not be allowed if the lot was vacant land. Chris Tracey stated he was willing to represent the ZBA on the matter. Ms. Allard stated the matter will further be discussed at an upcoming land use boards meeting, at which additional information will be provided.

Re-sale of Affordable Unit at Trail Ridge

Liz Allard had distributed a letter from Citizens' Housing and Planning Association which stated if a buyer for the available affordable unit at Trail Ridge could not be found within 90 days then the unit would be sold at fair market value and would no longer be considered as an affordable unit. The ZBA was unaware the deed rider for affordable housing projects contained such a clause. Ms. Allard suggested sending the Municipal Affordable Housing Trust (MAHT) a letter recommending they purchase or assign the rights to purchase to another non-profit entity. Robert Capobianco made a motion to send a letter to the MAHT as mentioned above. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Adjournment

At 9:50pm Robert Capobianco made a motion to adjourn the meeting. 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 Special Permit Hearing Meeting Minutes

Clifford Tomassian, 50 Turner Lane

July 8, 2015

The hearing was opened at 7:30pm 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, Steve Moeser, Robert Capobianco, Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin) and Cliff Tomassian

This hearing was continued from May 13, 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.

Cliff Tomassian was present to represent himself. Steve Moeser made mention of the deed reference from the Department of Environmental Protection (DEP), in which there is a restriction on the property as a seasonal residence. Mr. Tomassian stated the letter from Board of Health (BOH) states the dwelling is suitable for year round residency. The letter from DEP limits the property to a three-bedroom seasonal residence, making approving the use as year round residence a stumbling block for Mr. Moeser. Chris Tracey asked if the BOH letter references the DEP limits. Mr. Tomassian explained as previously stated a meeting with BOH a year and half ago it was discussed and approved by the BOH. Dan Wolfe, the president of Ross Associates, was present for another hearing this evening and offered the following information in regards to the use of tight tanks. Mr. Wolfe stated there is no design difference on a tight tank whether the property is used as seasonal or year round as far as Title V is concerned. Mr. Tracey suggested making the BOH requirements conditional of the Special Permit.

With no further questions or comments, Robert Capobianco made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously on favor of the motion.

After a brief discussion Steve Moeser made a motion to issue a Special Permit to Clifford Tomassian for the conversion of a seasonal residence, subject to meeting the requirements of the Board of Health. 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 Special Permit Hearing Meeting Minutes

Maureen Pettirossi, 64 Warren Avenue

July 8, 2015

The hearing was opened at 7:40pm by Member Steve Moeser 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, Steve Moeser, Robert Capobianco, Theodore Maxant, Mike Lawton and Orville Dodson

Others Present: Liz Allard (LUB Admin), Rob Oliva (Ross Assoc.), Joe Pettirossi, Maureen Pettirossi and Robert Hughes

This hearing was continued from June 10, 2015 for a Special Permit filed on behalf of Maureen Pettirossi, for the demolition and reconstruction of a pre-existing non-conforming structure at 64 Warren Avenue, Harvard.

Robert Oliva, Project Manager from Ross Associates, was present to represent the applicant, who was also present. Mr. Oliva stated the Board had a number of issues they were seeking to have addressed from the last meeting. A revised plans and storm water calculations were submitted. An opinion from Town Counsel was obtained that stated the house can be demolished and re-built as long as it is not more nonconforming. Drain calculations has determine the site will produce additional runoff post-construction as compared to pre-construction. Mr. Oliva reviewed the existing footprint and the proposed footprint. The revised plan shows the installation of three stone trenches and a rain garden to assist in infiltration of runoff on the site, which will provide enough storage for the increased runoff.

Mr. Oliva stated he has meet with the Conservation Commission, who has requested a planting plan for the disturbed areas. Mr. Oliva is aware of the letter from Fire Chief., but has not been able to connect with him since. Mr. Oliva stated that in previous conversations with the Fire Chief he had indicated he would be looking for improvements to the existing driveway to improve access; Mr. Oliva stated the applicant would be able to comply with those requests.

There has been no comment received from the Board of Health (BOH) on this application.

Chris Tracey, who was not present when the hearing was opened in June and therefore can not vote on the decision, asked if elevations or illustrations of the existing structure were submitted. Mr. Oliva stated they had not and further explained the conditions of the site. In addition, Steve Moeser stated at the previous hearing the abutter was present and had stated the new dwelling would not be noticeable from his property.

Mr. Oliva explained the Conservation Commission is looking at this project as new construction and are requiring the structure to meet the setbacks defined in their regulations, Chapter 147. Mr. Oliva is intending to present to the Commission the same proposal and try and work it out with them at their meeting on July 16th as the site does not allow for the setbacks to be met without extensive removal of the existing slope.

Mr. Moeser stated the Bare Hill Pond Watershed Management Committee had concerns with runoff, have the drainage calculations and revised plan been shared with them. Mr. Oliva stated they had not, but he is certain they would be happy with what has been proposed.

Mr. Moeser asked if trees would be taken down trees between the posed house and the pond. Mr. Oliva stated yes, however the structure is been constructed mostly in an area that is already developed. In addition, the trees that are being removed in that location are hemlocks that are dead or diseased and need to be removed. As previously stated, the Conservation Commission is requiring additional plantings in these areas to help reduce erosion into the pond. The Commission also requires that the stumps of the trees remain to aid is reduced erosion into Bare Hill Pond.

Mr. Moeser state some of his concerns have been addressed, but he would still like to hear from Conservation and the Fire Chief before closing the hearing.

Mr. Tracey asked about the existing two-bedroom septic system and the increased size of the proposed house; BOH had no comments. Liz Allard confirmed there have been no received comments from BOH. Mr. Tracey stated it would not be difficult to change the office on the second floor to a bedroom and exceed the number of bedrooms allowed for the size of the septic system. Mr. Oliva stated they are not exceeding the number of rooms allowed under Title V, which would be eight rooms. If you exceed the total numbers of rooms allowed under Title V you then have to take the total number of rooms and divide by two to get a bedroom count which then corresponds to the size of the system.

Mr. Moeser asked for comments from the public; there were none.

Orville Dodson stated he would like to wait for comments from Conservation before making a decision. Dan Wolfe, President of Ross Associates, stated he has spoken with the chair of Conservation who is admit that he is going to enforce the setbacks; if that happens a new site plan will need to be presented to the Board.

Mr. Oliva requested the hearing be continued. Robert Capobianco made a motion to continue the hearing to August 12, 2015 at 7:30pm. Theodore Maxant 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

John Finn, 44 Peninsula Road

July 8, 2015

The hearing was opened at 8:25pm 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, Steve Moeser, Robert Capobianco, Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc), John Finn and Robert Hughes

This hearing is for a Special Permit filed on behalf of John Finn for the reconstruction of a pre-existing non-conforming dwelling and conversion to year round use at 44 Peninsula Road, Harvard.

Robert Capobianco made a motion to waive the reading of the legal notice. Steve Moeser seconded the motion. The vote was in favor of the motion.

Dan Wolfe, President at Ross Associates, was present to represent the applicant, John Finn who was also present. Mr. Wolfe explained the site contains an existing cottage built in 1950, has frontage on Peninsula Road, which is non-conforming to the existing bylaw. The application proposes the demolition of the existing cottage and the reconstruction of a new dwelling, which is larger than the existing structure, but remains within the required setbacks under the bylaw and conforms in all manners. The application included the existing and proposed foot print and floor area of the structures.

In regards to any potential environmental concerns, as expressed by the Bare Hill Pond Watershed Management Committee (BHPWMC) and the Conservation Commission, the plan details the installation of an erosion control barrier, infiltration trenches, recharge drains, and a number of proposed plantings around the house and yard space to enhance the uptake of phosphorus. The site itself has a very thick buffer of trees to the water front, with two small view sheds. The existing canopy around the point will remain. Photos, submitted by the BHPWMC, show the existing cottage is only visible slightly from the water, otherwise the site is well vegetated, which provides filtering of any runoff to the pond.

An environmental review letter, which was prepared for a previous owner, was submitted with the application. Approval from ZBA to re-develop the property previously was granted. That re-development included an increase in the size of the existing cottage, a new barn and the installation of an in-ground pool.

The Conservation Commission expressed concern with the increase of runoff with the increase of impervious surface area. Mr. Wolfe explained the soils are very dense and do not perk well currently. Therefore the site does not infiltrate well, which is why the plan contains proposed infiltration trenches, recharge drains, and a number of proposed plantings around the house and yard space.

The Building Commission commented that the plan shows an accessory apartment, which is not allowed under current zoning on new construction. Mr. Wolfe explained the plans are from a clearing house and the applicant has no intention to include the accessory apartment; in fact he

may leave the second floor unfinished for a number of years, but will request the ability to plumb for such a unit in the future. Mr. Wolfe also noted there is no separate entrance for the accessory apartment, which is a requirement under the bylaw for such a use.

Mr. Wolfe explained the existing tight tank for septic has been in place since the mid-1990's. The plan proposes moving it to a more convenient location for servicing, which is further from the water.

Steve Moeser stated this location is one of the best pieces of property on the pond; many years ago Fiske Warren may have thought that as well and is why he placed restrictions on the development of the properties along Peninsula Road; in particular, a restriction that does not allow for a structure to be within 100' of the pond. It was explained and confirmed that a deed restriction is only valid for 30 years unless continued by interested parties.

Robert Capobianco noted the pictures from BHPWMC show the trees with full coverage; the home will be more visible in the fall and winter than shown in these photos. Mr. Capobianco has concerns with increased runoff. Mr. Wolfe explained how impervious the site is and how storage and infiltration is being provided. Chris Tracey asked if Mr. Wolfe could submit information to the fact that the soils are poor.

Mr. Moeser asked if the floor area calculations included the attic space. Mr. Wolfe stated they did not. Mr. Moeser stated the bylaw allows for 8000 square feet or 10% of the land area of a lot based on a 1.5 acre lot, but this is not a lot of that size. Theodore Maxant stated the limitation had to do with fire equipment, which no longer exists due to the fact the department has new equipment capable of handling a fire in a structure of this size.

Mr. Tracey suggested a performance bond be submitted should anything that would be detrimental to the site accidentally happen (i.e. removal of vegetation at the shore edge). Mr. Capobianco stated he did not think that is legal. Mr. Moeser asked about proposed tree removal for locating the house. Mr. Wolfe indicated the trees to be removed. The plan shows more than those that exist on the site. As previously stated, the site had been before the ZBA by a previous owner; Mr. Wolfe used that plan to develop the one before ZBA; since then some of those trees have been removed from the site, but not the plan.

Mr. Moeser noted there will be five feet of fill to level off site. Mr. Wolfe explained that is necessary to be able to construct the dwelling on a concrete slab. Mr. Moeser noted this will increase the height of the house and its view.

The members would like to review drainage calculations, soil conditions, revised floor area square footage to include attic space, how much fill is being brought in and how many truck loads that will require and the difference in height of the existing structure and the proposed.

Mr. Capobianco asked how Mr. Wolfe is complying with the provision of Chapter 125-11 A(2). Mr. Wolfe stated the septic on the site is discharged to a holding tank.

Mr. Tracey read the comments and letters received into the record.

With the ZBA seeking additional information, Robert Capobianco made a motion to continue the hearing to August 12, 2015 at 8:00pm in the Hapgood Room at 7 Fairbank Street. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Continuation of a Special Permit Hearing – Maureen Pettrossi, 64 Warren Avenue

- Site Plan, Joseph Pettrossi, 64 Warren Avenue, Harvard, MA, Davis E. Ross Associates, Inc., Job No. 30322, Plan No. L-12487-A, dated 7-8-15
- Runoff Volume Calculations (Rational Method), prepared by David E. Ross Associates, Inc., Job#30322 Pettrossi, dated 7-8-15

Special Permit Hearing – John Finn, 44 Peninsula Road

- Site Plan, John Finn, 44 Peninsula Road, Harvard, MA, David E. Ross Associates, Inc., Job No. 30122, Plan No. L-12643, dated June 2015