

**HARVARD ZONING BOARD OF APPEALS
MEETING MINUTES
OCTOBER 14, 2015
APPROVED: JANUARY 13, 2016**

Chairman Chris Tracey opened the meeting at 7:32pm 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 (by Skype), Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc.), Bob Kody (Envision Homes), Andy & Robin Hu, and Joe Pettirossi

Special Permit Hearing – Andy & Robin Hu, 13 Massachusetts Avenue. Opened at (for detailed minutes see page 3)

Request for *De Minimus* Finding – Pettirossi, 64 Warren Avenue

Dan Wolfe, President of Ross Associates, was present to discuss with the Board the request for *De Minimus* change to the Special Permit issued to Maureen Pettirossi for the demolition and re-construction of a pre-existing non-conforming structure at 64 Warren Avenue. Mr. Wolfe explained the applicant has retained a new architect for the re-construction of the dwelling, who has made some minor modifications to the approved plans. Bob Kody, of Envision Homes, explained the proposed sunroom will not be on a foundation as previously proposed; the dwelling will be shifted by one degree and the foundation moved one foot further back from the property line. The revised plan shows a smaller foot print for the foundation. The use of the basement will remain the same; mechanical equipment and storage. Robert Capobianco asked if the number of bedrooms and bathrooms would remain the same. Mr. Kody stated the number of bedrooms and bathrooms are not changing from the previously approved plan. In addition, the height of the proposed dwelling is approximately the same as the previously approved dwelling.

After a brief discussion, Steve Moeser made a motion to allow the modifications made to the approved plans for Maureen Pettirossi at 64 Warren Avenue as *De Minimus* and does not require a modification to the Special Permit based on the materials and information provided by the applicant's representatives. A Finding shall be written and signed by the Chairman on behalf of the Board. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Approve Minutes

Robert Capobianco made a motion to approve the minutes of September 9, 2015 as amended. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

125-3 Amendments

Liz Allard had previously distributed the amendments to the figures within Chapter 125-3 of the Protective Bylaw. The amendments to the figures better clarify when a resident with a pre-existing non-conforming structure needs to apply for a Special Permit from the ZBA. The request to amend this section of the Protective Bylaw has been sent to the Planning Board as part of the amendment process.

Amendments to Chapter 135 ZBA Regulations

Liz Allard explained to the members in order to be compliant with Massachusetts General Law the section within the ZBA Regulations regarding the hiring of outside consultants would require additional language. Ms. Allard had previously circulated the amendments to Chapter 135 to the members. A public hearing will need to take place at the next meeting of the ZBA to accept these changes.

Escrow Account Refund – Harvard Common Condos

Liz Allard explained, as instructed by the Board at the previous meeting, a letter was sent to the Zoning Enforcement Officer (ZEO) stating if the Board did not receive any input from him in regards to Harvard Common Condominiums being in compliance with the Comprehensive Permit before tonight’s meeting, the Board would consider the development to be compliant and therefore will release the escrow account. Ms. Allard stated she has not received any input from the ZEO. Steve Moeser made a motion to release the remaining funds in the escrow account for the development known as Harvard Common Condominiums. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion.

Request to Amend Chapter 125-32C(6) Sewage and Other Potential Sources of Contamination

Dan Wolfe, President of Ross Associates, explained to the members that the provision within the Protective Bylaw, 125-32C(5) requires revisions made to septic systems installed after March 31, 1984 to meet specific setbacks. Since the addition of this requirement a large number of septic systems have been installed that do not comply with this provision. These systems are now starting to fail and will need to be upgraded. If the provision is now applied most of these existing systems will require a variance to be upgraded. Mr. Wolfe is requesting the ZBA, through the Planning Board, amend the provision to remove the March 31, 1984 date and therefore allowing upgrades to take place in a timely manner. Removing the March 31, 1984 date does not remove the requirement for any and all new systems to meet the required setbacks. Members agreed the need for a variance to upgrade a failing system contradicts the intent of the provision; which is to protect the public health and the environment. Liz Allard will send a request to the Planning Board to amend the provision at the 2016 Annual Town Meeting.

Adjournment

At 8:47pm 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

Special Permit Hearing Meeting Minutes

Andy & Robin Hu, 13 Massachusetts Avenue

October 14, 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: Christopher Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Mike Lawton

Others Present: Liz Allard (LUB Admin), Dan Wolfe (Ross Assoc)

This hearing for a Special Permit filed on behalf of Andy & Robin Hu for the reconstruction of a pre-existing non-conforming structure on a pre-existing non-conforming lot at 13 Massachusetts Avenue, Harvard.

Steve Moeser made a motion to waive the reading of the legal notice. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion.

Dan Wolfe, President of Ross Associates, was present to represent the applicant, Andy and Robin Hu, who were present as well. Mr. Wolfe explained the existing structure is a small garage and workshop area; which is in disrepair. The lot and the structures on the lot are pre-existing non-conforming. The existing garage does not conform to side offsets to the property lines. Currently the garage is 1.2 feet from property line; as proposed the garage will be 3 feet from the property line, with an over hang that will be 2.1 feet from the property line.

Steve Moeser questioned whether or not 125-30E(2) Land-structures relations, Setbacks, would apply in regards to the structure being setback by at least the height of the structure. Members discussed this question and found that as a pre-existing non-conforming structure and lot this provision of the Bylaw may not apply. Town Counsel will be consulted as to his opinion.

Mr. Moeser noted the garage wall adjacent to the abutting property will have to be fire rated, which would be up to the Building Commissioner to enforce. Orville Dodson asked if there any changes to the driveway. Mr. Wolfe stated the driveway will be extended to the proposed garage. Robert Capobianco asked if it is a fact the non-conformity is actually being reduced. Mr. Wolfe stated it was.

Comments received from other Boards and Committees were read into the record by the Chairman. The Board of Health commented that the loft space is to remain unfinished; however this property is within the sewer district and therefore does not have any limitations on number of rooms as do private septic systems.

With no further questions or comments Theodore Maxant made a motion to close the evidentiary portion of the hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Theodore Maxant made a motion to issue a Special Permit for Andy & Robin Hu for the reconstruction of a pre-existing non-conforming structure at 13 Massachusetts Avenue. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion.

Signed: _____
Liz Allard, Clerk

DOCUMENTS & OTHER EXHIBITS

Special Permit Hearing – Andy & Robin Hu, 13 Massachusetts Avenue

- Site Plan, designed for Andy & Robin HU, 13 Massachusetts Avenue, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 30019, Plan No. M-6612, dated September 2015
- Architectural drawings, Sheets 1, 4 and 5, Hu Garage – Loft, 13 Massachusetts Ave, Harvard, prepared by Envision Homes, dated 7/30/2015

Request for *De Minimus* Finding – Pettirossi, 64 Warren Avenue

- Sheet 8 of the Revised Site Plan for the Pettirossi Residence, 64 Warren Avenue, prepared by Envision Homes, dated 9/30/2015