

Posted April 8, 2021 @ 1:00pm by LA

**TOWN OF HARVARD  
ZONING BOARD OF APPEALS AGENDA  
WEDNESDAY APRIL 14, 2021 @ 7:00pm**

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The Zoning Board of Appeal meeting is being held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20. Interested individuals can listen in and participate by phone and/or online by following the link and phone # below:

UpperTH ProWebinar is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/88678121169?pwd=bzVrSWUxVW1LUjhBVVE3d3UrWml0Zz09>

Meeting ID: 886 7812 1169

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Meeting ID: 886 7812 1169

Find your local number: <https://us02web.zoom.us/j/88678121169?pwd=bzVrSWUxVW1LUjhBVVE3d3UrWml0Zz09>

7:00pm **Special Permit Hearing – John & Katrina Lackner, 108 Wets Bare Hill Road**, for the demolition and addition to a portion of a pre-existing non-conforming structure

7:15pm **Revisions to the Town of Harvard Zoning Board of Appeals Application for Hearing**

**New Business:** a) Planning Board Protective Bylaw Amendments Chapter 125-18.1 & 125-57

b) Discuss Revised Bond for Trail Ridge

c) Release Escrow Account – Cellco Partnership \$237.00

d) Recommendations to the Select Board for Annual Appointments

e) Approve Minutes – October 14, November 10 & 18, December 16 & 30, 2020 and February 10, 2021

f) Approve Invoice – Nitsch Engineer \$1495.00 (Trail Ridge)

**NEXT SCHEDULED MEETING:  
MAY 12, 2021**

The listing of matters are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



§ 125-18.1 Accessory dwelling units-apartment use.

[Added 3-27-1982 ATM by Art. 37; amended 4-5-1986 ATM by Art. 33; 3-25-2006 ATM by Art. 10; 11-6-2017 STM by Art. 1

**Intent.** The intent of this bylaw is to provide the owner of a single-family residence the ~~possibility of establishing a single and separate opportunity to establish an~~ accessory apartment dwelling unit (ADU) in a section of the residence or in an accessory building with no change in the principal use of the premises. The establishment of such ~~an accessory apartment~~ ADU will be by special permit issued by the Zoning Board of Appeals, ~~unless otherwise specified below~~. The outside appearance of the premises shall remain that of a single-family residence. The ~~apartment unit~~ is for the use of a limited number of persons, with no restriction on the relationship of the occupants to the owner. To be considered a ~~separate apartment unit~~, the ~~apartment~~ ADU must have its own kitchen, sleeping, and interior toilet and bath facilities, as well as a separate entrance. To be considered accessory, the apartment shall be restricted in size relative to the primary residence, and must be clearly accessory and subordinate to the principal use of the premises as a single-family residence. ~~The apartment will~~ Any such unit shall provide adequate privacy, safety, and convenience for the occupants. Establishment of such an ADU ~~accessory apartment is shall be~~ as follows:

**A. Requirements.** ~~By special permit from the Board of Appeals, one accessory apartment~~

- (1) Number and approach: One (1) ADU on a premises can be established, provided the applicant demonstrates that adherence with the provisions of this section:
  - (a) By special permit from the Zoning Board of Appeals, or
  - (b) By right, provided the unit is designed and constructed according to the Age-Appropriate Design Criteria as defined in §125-57E of the Protective Bylaw.
- (2) Dimensional requirements: The unit or units shall meet the following dimensional limitations:
  - (a) The ADU, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1,500 square feet, but in no case shall the total square footage of the ADU exceed one-half (1/2) of the total habitable floor area of the primary residence.
  - (b) Consistent with Minimum Square Footage (State Sanitary Code, Chapter II.105 CMR 410.000).
- (3) Design: Accessory dwelling units shall be designed and constructed as follows:
  - (a) The outside appearance of the residence and premises shall remain that of a single-family home.
  - (b) The ADU shall have its own separate entrance from the outside.
  - (c) The ADU shall have its own kitchen, sleeping, interior toilet, and bathing facilities.
  - (d) The rooms in the ADU shall have adequate ventilation and shall have heat that is adequately supplied and controlled.

(e) The ADU shall comply with all health and safety requirements for residences.

(4) Water and wastewater: The creation of any ADU must comply with 310 CMR 15.000: Septic Systems ("Title 5") and its successors and standard Board of Health regulations for any increase in bedrooms being served by the system.

~~(1) The outside appearance of the residence and premises shall remain that of a single family premises.~~

~~(2) The apartment, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1,200 square feet, but no more than 1/3 of the total usable floor area of both the apartment and the primary residence.~~

~~(3) The apartment shall have its own separate entrance from the outside.~~

~~(4) The apartment shall have its own kitchen, sleeping, interior toilet and bathing facilities.~~

~~(5) The rooms in the apartment shall have adequate ventilation and shall have heat that is adequately supplied and controlled.~~

~~(6) The apartment shall have smoke and/or fire detectors.~~

~~(7) If the creation of the accessory apartment involves an increase in the count of the number of bedrooms, the addition must comply with standard Board of Health regulations for such an increase.~~

**B. Limitations.** The special permit and/or building permit shall be issued only if ~~it~~ the application contains the following limitations and conditions:

(1) The ~~premises owner(s)~~ shall continue to ~~be used~~ reside on the property as a their principal residence ~~by its owner.~~

(2) The ~~number of residents of the apartment~~ occupancy of any ADU shall be ~~is limited to three, but no more than the number which the Board of Appeals finds to be~~ is consistent with the adequacy of the facilities provided. consistent with the requirements of 105 CMR 410.000.

(3) All turnaround and parking areas shall be provided on the lot. As viewed from the street, turnaround and parking area should be that of a single-family ~~premises~~ home.

**C. Site plan standards.** A special permit and/or building permit issued under this section, by itself, does not require separate site plan review under §-125-39. However, if any ADU results in new building area on the lot, an engineered site plan shall be required showing the addition and all relevant zoning dimensions to determine compliance with this section.

**D. Review and approval.** Accessory dwelling units shall be reviewed based on whether the unit includes age-appropriate design features as follows:

(1) For accessory dwelling units that are not designed according to the Age-Appropriate Design Criteria provided in §125-57(E). Age-appropriate design, applicants are required to apply to the Zoning Board of Appeals for a Special Permit. Applications shall include an application form.

filing fee, engineered site plan as applicable, and building plans and elevations showing sufficient detail to determine compliance with this section.

- (2) For accessory dwelling units that are designed according to the Age-Appropriate Design Criteria provided in §125-57(E), Age-appropriate design, applicants are required to apply to the Building Commissioner for a building permit. Applications shall include an application form, filing fee, engineered site plan as applicable, and building plans and elevations showing sufficient detail to determine compliance with this section.
- (3) A copy of the application packet shall be provided to other interested Town boards, officials and departments for advice and recommendations. Board of Health approval shall be required.



## **§125-57 Senior Residential Development**

### **A. Purpose and Intent.**

- (1) To address the town's demonstrated need for a variety of housing types, settings, and residential services to meet the needs of people as they age.
- (2) To permit the development of appropriately located, specially designed, and appropriately priced housing for seniors who would otherwise not have such housing opportunities within the town.
- (3) To provide opportunities for Harvard residents to age in place.
- (4) To allow flexibility in land use planning in order to improve site layouts, protect natural features and environmental values, and use land in harmony with neighboring properties;
- (5) To encourage the implementation of "Smart Growth" and sustainable development techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures;
- (6) To reduce the typical costs of providing municipal services to residential developments;
- (7) To protect Harvard's rural New England character by permitting the development of residential housing in clusters and village-like settings, in a manner which is in harmony with Harvard's historic development pattern, preserves and protects its natural resources, and is pedestrian friendly.

### **B. Applicability.**

- (1) The Planning Board may approve a site plan or grant a Special Permit for a Senior Residential Development project in accordance with this Section 125-57 based on the requirements of the applicable section below.
- (2) A Senior Residential Development is one that anticipates and is marketed to people age 55 or over or age 62 and older strictly following the U.S. Department of Housing and Urban Development (HUD) requirements (See CRF Title 24, Subpart E, 43 U.S.C. § 3601 *et seq.*, and Massachusetts General Laws Chapter 151B). Specific age-restriction criteria are provided in Section C(2) below.
- (3) Senior Residential Developments are restricted to the criteria and zoning district(s) specified in Section G. below.
- (4) The provisions of this Section are exempt for Accessory Dwelling Units (ADUs), except for Age-Appropriate Design provided in Section E. below.

### **C. General Compliance.**

- (1) A Senior Residential Development proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special requirements of the Historic District and the Groundwater Protection Overlay District. For development proposed as part of this Bylaw, the provisions of

Chapter 125, shall apply in full, except where inconsistent with this section. In the latter case, the provisions of this section shall supersede any such inconsistent provisions.

- (2) Age Restriction - A Senior Residential Development may impose an older persons age restriction set forth in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or registered in the Land Court. The age restriction threshold shall meet the requirements of the Housing for Older Persons Act of 1995 (HOPA). In addition:
  - (a) For communities or units intended to be marketed to and occupied by residents age 62 or older, the age restriction may be comprehensive and applied to all units.
  - (b) For communities or units intended to be occupied by residents age 55 and older
    - [1] At least eighty (80%) percent of units shall be occupied by at least one (1) person who is 55 years of age or older.
    - [2] The facility must publish and adhere to policies and procedures that demonstrate the intent to operate as “55 or older” housing.
    - [3] The facility must comply with the U.S. Department of Housing and Urban Development (HUD) regulatory requirements for age verification of residents.
  - (c) The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of dwelling units in the senior residential development or by the Building Commissioner of the Town of Harvard.
  - (d) Projects that intend to include a strict over-62 restriction are not eligible for inclusion in the Local Initiative Program (LIP) and shall not be eligible for the Inclusionary Housing density bonus.
  - (e) Projects that propose LIP units shall not exclude persons under 18 years of age from occupying the affordable units as long as at least one occupant is over the age of 55.

#### **D. Basic Development Requirements.**

- (1) Maximum Number of Senior Housing Dwelling Units in Harvard – The maximum number of housing units within all permitted senior residential developments in the Town of Harvard shall be limited to a number equivalent to 15% of the existing total residential housing units located in the Town of Harvard. For the purpose of this section, the number of residential housing units shall be as established by the Board of Assessors as of January 1 of the calendar year. The Planning Board may waive this limitation if the Board finds that the proposed development fulfills a critical senior housing need for the Town of Harvard or the surrounding region.
- (2) Pace of Development – A maximum of 100 units may be approved by special permit on an annual basis but no more than 30 units may be permitted in any one year. The only new Senior Residential Development units permitted over this cap period shall be accessory dwelling units.

#### **E. Age-Appropriate Design.**

A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. Units for seniors shall be “visitable” and designed for



people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

- (1) At least one (1) zero-step entrance,
- (2) Doorways with a 36-inch clear passage space,
- (3) Master bedroom and an accessible en-suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
- (4) Master bedroom and en-suite bathroom designed and equipped for seniors and people mobility impairments, and
- (5) For developments with three or more units, the following provisions must apply:
  - (a) Covered, indoor or structured parking shall be provided.
  - (b) Compliance with the applicable accessibility requirements of the Massachusetts Architectural Access Board.
  - (c) Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access as provided in the Federal Fair Housing Act and the Americans with Disabilities Act, as amended.

#### **F. Development Standards.**

As part of the Planning Board's site plan and special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance with design standards as they may be applicable.

Development design shall conform to the requirements of the applicable section of the Harvard Protective Bylaw for the type of development described in Section G. below.

#### **G. Senior Residential Development Types.**

This bylaw provides for two (2) Senior Residential Development types as follows. General provisions covering all developments shall be provided in Sections D through F above. Applicants should also refer to Chapter 125, Sections 38, 39 and 46, as they may be applicable to the application as well.

- (1) Accessory Dwelling Units (ADUs) – Accessory Dwelling Units shall be permitted as per §125-18.1
- (2) Assisted-Living Facility – Communities that offer a multi-faceted residential setting that provides personal care services, 24-hour supervision and assistance, and activities and health-related services for seniors, located within ARV-SP districts, §125-52(L). Requirements for Assisted Living Facility developments are provided in §125-52(I).



February 19, 2021

Harvard Zoning Board of Appeals  
c/o Ms. Liz Allard  
Zoning Administrator  
13 Ayer Road  
Harvard, MA 01451

RE: Nitsch Project #4095  
Trail Ridge  
Construction Cost Estimate  
Harvard, Massachusetts

Dear Zoning Board Members:

As requested, Nitsch Engineering prepared the estimated probable construction costs associated with the Trail Ridge subdivision. Steven Ventresca, PE of Nitsch Engineering, Liz Allard and Mike Carroll, neighborhood representative, conducted a site visit on November 17, 2020 to observe the current construction status.

Nitsch Engineering used the following Approved plans for review:

1. Plans entitled, "Trail Ridge at Harvard" in Harvard, Massachusetts, dated November 22, 2002, with a revision date of November 1, 2012.

Nitsch Engineering used the MEANS SITE WORK AND LANDSCAPE COST DATA, 2021 and Massachusetts Department of Transportation Weighted Average Bid Prices to complete the estimate for this work. Nitsch Engineering notes that only the project utilizes (sewer, drainage, electrical conduit) were installed and that the roadway base course was installed, but the pavement top course and asphalt berms have not been installed. Nitsch recommends the following must occur prior to street acceptance:

1. Replace broken frames to drain and sewer manhole structures. Nitsch held 15 castings as part of the cost estimate. The number of replaced casts should be verified in the field;
2. All castings shall be raised to finished grade prior to top course pavement installation and any concrete around the castings should be removed and disposed of properly;
3. Any concrete in the roadway shall be removed and patched with base course;
4. Install the sidewalk on the south side of the street – one side only;
5. Install the pedestrian ramps with tactile warning strips – Nitsch estimates two (2) ramps;
6. Clean all catch basins, drainage manholes, and drain pipes of sediment;
7. Re-establish the sub-drain at the edge of the roadway by removing debris and sediment;
8. Remove any sediment and erosion control measures (silt fence, wattles, etc.) at the limit of work for the site;
9. Sweep the entire street prior to the top course installation;
10. Consider as an option milling one (1) inch of the asphalt base course and installing a leveling base course prior to the installation of the top course because the base course has been installed for almost 10 years and is cracked showing wear throughout;
11. Install the roadway top course and berm as an integrated section and install new driveway aprons to meet smoothly with the new roadway top course so that storm water does not flow toward the housing units or pond at the driveways. A tack coat shall be distributed evenly using a tack truck on the asphalt base course prior to installation of the top course;

12. Install concrete bounds at the intersection of the street layout with Littleton County Road and at all abutter lot lines that intersect with the property line and at areas directed by the Conservation Agent for the Open Space easement lines. Nitsch estimates approximately 10 bounds, but additional bounds may be necessary at the Agent's discretion;
13. Installation of up to two (2) street signs;
14. Remove the existing wood guard rail and replace with a new wooden guardrail.
15. Provide as-builts of the project site to the Town of Harvard (PDF and CAD files) showing at a minimum edge of pavement, all utilities, inverts, pipe diameters, pipe material, all building unit locations, signs, swales final grades and as-built roadway and utility profile;

Nitsch Engineering recommends that an estimate be established for \$604,232. As is consistent with the Board's policy, this estimate includes a 15% contingency.

If the Zoning Board has any questions, please call.

Very truly yours,

**Nitsch Engineering, Inc.**

Steven Ventresca, PE, LEED AP BD+C  
Senior Project Manager

SV/

Enclosures: 4095 Trail Ridge Estimate-2021-02-19

N:\4095 40B-Trail Ridge\Civil\Project Data\4095-Bond Estimate Trail Ridge-2021-02-19.doc

CLIENT: Harvard Zoning Board of Appeals  
PROJECT: Trail Ridge - 40B  
LOCATION: Harvard, MA  
JOB NO.: #4095.1

SHEETS: 1  
COMPUTED BY: Steven Ventresca, PE  
UPDATED BY: Steven Ventresca, P.E.  
DATE: December 13, 2005 / Revised Feb 19, 2021  
Unit Cost Values: Means Site Work & Landscape Cost Data 2021, MDOT Est

Item Description	Phase I	Unit	Unit Cost	Phase I Cost	Qty of Comp. Work	Unit	Value of Complete Work: March 28, 2005	Qty of Comp. Work	Unit	Value of Complete Work: July 31, 2006	Qty of Comp. Work	Unit	Value of Complete Work: July 31, 2006	Qty of Comp. Work	Unit	Value of Complete Work: Feb 19, 2021	Value Remaining Work
Trail Ridge																	
a. Roadway A - B24' Wide																	
1.5 inch Base Course	750	TONS	\$555.86	\$415,245.00	0	TONS	\$0.00	0	TONS	\$0.00	0	TONS	\$0.00	750	TONS	\$415,245.00	\$0.00
b. Roadway B - 24' Wide																	
1.5 inch Top Course	750	TONS	\$227.86	\$170,965.00										0	TONS	\$0.00	\$170,965.00
C&G Cod Berm	3000	LF	\$3.00	\$9,300.00										0	LF	\$0.00	\$9,300.00
One Inch Mill Base Course (Optional)	8740	SY	\$4.00	\$34,960.00										0	SY	\$0.00	\$34,960.00
One Inch Leveling Course (Optional)	500	TONS	\$1.05	\$525.00										0	TONS	\$0.00	\$525.00
Driveway Apron Top Course	52	EA	\$285.88	\$14,865.76										0	EA	\$0.00	\$14,865.76
Driveway Apron Base Course	62	EA	\$260.43	\$16,126.86										0	EA	\$0.00	\$16,126.86
Fire Lane (One)	7	TONS	\$181.81	\$1,272.67										0	TONS	\$0.00	\$1,272.67
Track Coat	440	GAL	\$0.00	\$0.00										0	GAL	\$0.00	\$0.00
Sidewalk 5' wide	1000	LF	\$17.88	\$17,880.00										0	LF	\$0.00	\$17,880.00
Handicap Ramps	2	EA	\$883.93	\$1,767.86										0	EA	\$0.00	\$1,767.86
Wood Guard Rail - Replace	613	LF	\$16.83	\$10,316.79										0	LF	\$0.00	\$10,316.79
Loam & Seed	60	msf	\$147.22	\$8,833.20	0	msf	\$0.00	30	msf	\$4,236.60			\$0.00	60	msf	\$8,833.20	\$0.00
Grass (or Roadway)	1562	tons	\$18.60	\$29,053.20	1400	tons	\$27,440.00	162	tons	\$3,175.20	1,562	tons	\$30,615.20		tons	\$30,615.20	\$0.00
Birdie	1	EA	\$100,000.00	\$100,000.00	0.85	EA	\$85,000.00	0.15	EA	\$15,000.00	0	EA	\$0.00	1	EA	\$100,000.00	\$0.00
Detention Basin (A)																	
a. Gravel	330	SY	\$2.68	\$877.80	300	SY	\$798.00	30	SY	\$78.80	0	SY	\$0.00	330	SY	\$877.80	\$0.00
b. Loam & Seed	14.72	msf	\$845.00	\$12,015.90	4	msf	\$3,380.00	3	msf	\$2,535.00	7	msf	\$6,100.90		msf	\$12,015.90	\$0.00
c. 12" R. R. R.	20	SY	\$48.50	\$970.00	20	SY	\$960.00	0	SY	\$0.00	0	SY	\$0.00		SY	\$960.00	\$0.00
d. Level 5' rector "A"	1	EA	\$300.00	\$300.00	1	EA	\$300.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$300.00	\$0.00
Basin Maintenance	1	EA	\$500.00	\$500.00										0	EA	\$0.00	\$500.00
Detention Basin (B)																	
a. Gravel	450	SY	\$2.68	\$1,197.00	400	SY	\$1,064.00	50	SY	\$133.00	0	SY	\$0.00		SY	\$1,197.00	\$0.00
b. Loam & Seed	14	msf	\$845.00	\$12,015.90	4	msf	\$3,380.00	3	msf	\$2,535.00	7	msf	\$6,100.90		msf	\$12,015.90	\$0.00
c. 12" R. R. R.	20	SY	\$48.50	\$970.00	20	SY	\$960.00	0	SY	\$0.00	0	SY	\$0.00		SY	\$960.00	\$0.00
d. Headwalls	1	LS	\$5,000.00	\$5,000.00	0	LS	\$0.00	1	LS	\$5,000.00	0	LS	\$0.00		LS	\$5,000.00	\$0.00
e. Level 5' rector "B"	1	EA	\$500.00	\$500.00	1	EA	\$500.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$500.00	\$0.00
Basin Maintenance	1	EA	\$1,000.00	\$1,000.00										0	EA	\$0.00	\$1,000.00
Detention Basin #1																	
a. Gravel	3200	SY	\$2.66	\$8,512.00	3200	SY	\$8,512.00	0	SY	\$0.00	0	SY	\$0.00		SY	\$8,512.00	\$0.00
b. Loam & Seed	14	msf	\$845.00	\$12,015.90	7	msf	\$5,915.00	0	msf	\$0.00	7	msf	\$6,100.90		msf	\$12,015.90	\$0.00
c. 12" R. R. R.	20	SY	\$48.50	\$970.00	20	SY	\$960.00	0	SY	\$0.00	0	SY	\$0.00		SY	\$960.00	\$0.00
d. Erosion Control	1	EA	\$300.00	\$300.00	1	EA	\$300.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$300.00	\$0.00
e. Gravel Access Road	1	EA	\$15.00	\$15.00	0	EA	\$0.00	100	LF	\$15,000.00	55	LF	\$825.00		LF	\$2,225.00	\$0.00
f. Outlet Control Structure	1	EA	\$2,750.00	\$2,750.00	1	EA	\$2,750.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$2,750.00	\$0.00
Basin Subdrain	230	LF	\$10.00	\$2,300.00	230	LF	\$2,300.00	0	LF	\$0.00	0	LF	\$0.00		LF	\$2,300.00	\$0.00
Basin Maintenance	1	EA	\$3,000.00	\$3,000.00										0	EA	\$0.00	\$3,000.00
Remove Concrete Drainage Frames	16	CV	\$160.00	\$2,560.00										0	CV	\$0.00	\$2,560.00
Adjust Frame and Grates/Convert to FG	46	EA	\$187.38	\$8,619.48										0	EA	\$0.00	\$8,619.48
Replace Broken Frames with New Frames	10	EA	\$634.81	\$6,348.10										0	EA	\$0.00	\$6,348.10
Subdrain w/ Frame & Grate	14	EA	\$7,625.00	\$106,750.00	14	EA	\$106,750.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$106,750.00	\$0.00
14" x Frame and Grates (Inlets)	83	EA	\$300.00	\$24,900.00	0	EA	\$0.00	83	EA	\$24,900.00	0	EA	\$0.00		EA	\$24,900.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	13	EA	\$4,775.00	\$62,275.00	13	EA	\$62,275.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$62,275.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	11	EA	\$2,935.00	\$32,285.00	11	EA	\$32,285.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$32,285.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	2	EA	\$1,690.00	\$3,380.00	2	EA	\$3,380.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$3,380.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	2	EA	\$4,725.00	\$9,450.00	2	EA	\$9,450.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$9,450.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	1	EA	\$8,620.00	\$8,620.00	1	EA	\$8,620.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$8,620.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	10	EA	\$2,935.00	\$29,350.00	10	EA	\$29,350.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$29,350.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	8	EA	\$3,825.00	\$30,600.00	8	EA	\$30,600.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$30,600.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	1	EA	\$7,150.00	\$7,150.00	1	EA	\$7,150.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$7,150.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	1	EA	\$15,000.00	\$15,000.00	1	EA	\$15,000.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$15,000.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	4	EA	\$3,825.00	\$15,300.00	4	EA	\$15,300.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$15,300.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	17	EA	\$2,935.00	\$50,095.00	17	EA	\$50,095.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$50,095.00	\$0.00
Drainage Basin (Inlets) Frame & Grates	11	EA	\$4,725.00	\$52,025.00	11	EA	\$52,025.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$52,025.00	\$0.00
12" RCP (Inlets) trenching	1	EA	\$1,300.00	\$1,300.00	1	EA	\$1,300.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$1,300.00	\$0.00
15" RCP (Inlets) trenching	308	LF	\$35.00	\$10,780.00	308	LF	\$10,780.00	0	LF	\$0.00	0	LF	\$0.00		LF	\$10,780.00	\$0.00
18" RCP (Inlets) trenching	671	EA	\$87.00	\$58,357.00	671	EA	\$58,357.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$58,357.00	\$0.00
12" Flare-end section	2	EA	\$15.00	\$30.00	2	EA	\$30.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$30.00	\$0.00
15" Flare-end section	1	EA	\$100.00	\$100.00	1	EA	\$100.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$100.00	\$0.00
18" Flare-end section	1	EA	\$150.00	\$150.00	1	EA	\$150.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$150.00	\$0.00
24" Flare-end section	1	EA	\$300.00	\$300.00	1	EA	\$300.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$300.00	\$0.00
Outlet Control Structure	1	EA	\$7,150.00	\$7,150.00	1	EA	\$7,150.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$7,150.00	\$0.00
Subdrain (re-establish)	780	LF	\$10.00	\$7,800.00										800	LF	\$8,000.00	\$1,800.00
Yard Drain	7	EA	\$200.00	\$1,400.00	7	EA	\$1,400.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$1,400.00	\$0.00
Street Signs & Post	2	EA	\$200.00	\$400.00										0	EA	\$0.00	\$400.00
General Clean Up	1	LS	\$3,500.00	\$3,500.00										0	LS	\$0.00	\$3,500.00
Clean Drainage System	1	LS	\$3,000.00	\$3,000.00										0	LS	\$0.00	\$3,000.00
Siltation Fence (removal)	4000	LF	\$1.09	\$4,360.00	2000	LF	\$2,180.00	0	LF	\$0.00	0	LF	\$0.00		LF	\$2,180.00	\$2,180.00
Hydrants (removal)	2000	LF	\$2.94	\$5,880.00	1000	LF	\$2,940.00	0	LF	\$0.00	0	LF	\$0.00		LF	\$2,940.00	\$2,940.00
As-Built and Acceptance Plan	1600	LF	\$18.52	\$29,632.00										0	LF	\$0.00	\$29,632.00
Roadway Maintenance	1500	LF	\$7.50	\$11,250.00										0	LF	\$0.00	\$11,250.00
Monument Survey and Cone Bounds	10	EA	\$671.21	\$6,712.10										0	EA	\$0.00	\$6,712.10
Survey Line - 8" PVC (Inlets) trenching	26730	LF	\$38.00	\$1,017,740.00	2500	LF	\$95,125.00	0	LF	\$0.00	173	LF	\$6,581.65		LF	\$1,017,740.00	\$0.00
Force Main	2000	LF	\$1.00	\$2,000.00	1800	LF	\$1,800.00	0	LF	\$0.00	200	LF	\$200.00		LF	\$2,000.00	\$0.00
Sanitary System	1	LS	\$100,000.00	\$100,000.00	0	LS	\$0.00	0	LS	\$0.00	0	LS	\$0.00		LS	\$100,000.00	\$0.00
Sanitary Pump Chamber	1	LS	\$30,000.00	\$30,000.00	0	LS	\$0.00	0	LS	\$0.00	0	LS	\$0.00		LS	\$30,000.00	\$0.00
Wells (Inlets)	0	EA	\$0.00	\$0.00	0	EA	\$0.00	0	EA	\$0.00	0	EA	\$0.00		EA	\$0.00	\$0.00
Access Road	4000	LF	\$2.50	\$10,000.00	0	LF	\$0.00	200	LF	\$1,500.00	200	LF	\$1,500.00		LF	\$3,000.00	\$0.00
Water Line (Inlets) trenching	3050	LF	\$51.00	\$155,550.00	2900	LF	\$147,900.00	0	LF	\$0.00	150	LF	\$7,650.00		LF	\$155,550.00	\$0.00
15,000 Gallon Fire Cistern	1	EA	\$20,000.00	\$20,000.00	0	EA	\$0.00	0	EA	\$0.00	1	EA	\$20,000.00		EA	\$20,000.00	\$0.00
20,000 Gallon Fire Cistern	1	EA	\$25,000.00	\$25,000.00	0	EA	\$0.00	0	EA	\$0.00	1	EA	\$25,000.00		EA	\$25,000.00	\$0.00
H. Drains	2	EA	\$1,450.00	\$2,900.00	0	EA	\$0.00	0	EA	\$0.00	2	EA	\$2				



CELLO PARTNERSHIP  
d/b/a VERIZON WIRELESS  
12 WOODCHUCK HILL ROAD

[illegible]





**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
OCTOBER 14, 2020**

Chair Chris Tracey called the meeting to order at 7:01pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Roseanne Saalfeld, Barbara & Gregory Romero, Peter Deng, Matt Flokos (Harvard Press), Brian Nobel, Robin Carlaw, David Maxson (Isotrope, Inc.), Pablo Carbonell, Bruce Ringwall (GPR, Inc.), Neil Gorman (Ross Associates), Bill Calderwood, Pam Brown, Joanna Aloise, Alison Thornton, Steve & Susan Coldwell and Suzanne Allen

**Continuation of a Variance Hearing – Cellco Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.** Opened at 7:01pm. (See page 3 for complete details)

**Special Permit Hearing – Pablo Carbonell, 45 Pine Ridge Drive.** Opened at 8:00pm (See page 5 for complete details)

**Variance Hearing – Peitao Deng, Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road.** Opened 8:15pm (See page 6 for complete details)

**Review Trail Ridge Bond Reduction**

After a brief discussion, Orville Dodson made a motion to approve the reduction of the bond for Trail Ridge as recommended by Nitsch Engineering to \$9500.00. Steve Moeser seconded the motion. The vote was 2-1 by roll call Steve Moeser, aye; Theodore Maxant, nay; and Chris Tracey, aye.

**Approve Minutes – August 12 & September 16, 2020**

This item was passed over

**Approve Invoice – Isotrope, \$5457.50**

Theodore Maxant made a motion to approve the invoice of Isotrope in the amount of \$5,547.50. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

**Election of Officers for FY2021**

Michael Lawton has expressed an interest in being the Vice Chair of the Board. Steve Moeser stated he would have no issue with becoming an associate member, which would allow for Mr. Lawton to be appointed a member and ultimately elected vice chair. Liz Allard will confirm with the Town Administrator if the suggested change of membership would be allowed.

**Request to Endorse Craftsman Village Harvard Regulatory Agreement**

With all necessary documents reviewed and approved by Town Counsel, Steve Moeser made a motion to endorse the Regulatory Agreement of Craftsman Village and to allow the Chair, Chris Tracey sign on behalf of the Board. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

**Adjournment**

At 9:42pm Steve Moeser made a motion to adjourn the meeting. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated October 14, 2020
- Letter from McLane Middleton, Christopher Swiniarski to Town of Harvard Zoning Board of Appeals and Planning Board (the "Boards") RE: Responses to requests at September 14, 2020 ZBA meeting – Proposed Wireless Communications Facility by Verizon Wireless ("Applicant") 12 Woodchuck Hill Road, Harvard, MA ("Property"), October 4, 2020
- Email from Mark Lanza to Chris Tracey Subject: 12 Woodchuck Hill Road – Consultant Report, September 24, 2020
- Attachment C: Harvard 3 – Existing/Approved 700MHz Sector Footprints, undated
- Notice of Intent & Special Permit Site Plan 45 Pine Ridge Drive Harvard, MA prepared for Pablo Carbonell 133 Old Mill Road Harvard, MA 01451 JOB 161031 prepared by GPR, Inc. dated 9/10/2020
- Conceptual Driveway Plan Peitao Deng Littleton Road Harvard, MA Lot 6-8 Map 13 Parcel 29.6 & portion of 22 prepared by David E. Ross Associates, Inc., September 2020

## **Harvard Zoning Board of Appeals**

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

#### **Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road**

**October 14, 2020**

The Zoning Board of Appeals hearing was opened at 7:01pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chair Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Roseanne Saalfeld, Barbara & Gregory Romero, Brian Nobel, Rich Maiore, Robin Carlaw, Bill Calderwood, David Maxson (Isotrope, Inc.) Dave

This hearing was continued from September 14, 2020 for a Variance filed on behalf of Cellco Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Attorney Chris Swiniarski provided an update from the previous meeting, which are detailed with the letter from him dated October 4, 2020 and include:

- A revision to the provided coverage gained map with contrasting color
- What alternative sites were considered by the applicant to potentially achieve similar coverage objectives with or without variances
- Whether service complaints in the area have been from Harvard residents or not
- General responses to the report by Isotrope Wireless dated September 10, 2020

In regards to improved coverage with alternative sites, the material submitted in the above-mentioned letter details how Verizon chose the existing location. Attorney Swiniarski stated he was unable to easily obtain info on coverage complaints. Attorney Swiniarski stated the application provides significant coverage. Attorney Swiniarski did not find any discrepancies between how he views the requirements from that of the Isotrope report.

Attorney Swiniarski had not yet received the advice provide by Town Counsel, Mark Lanza. Chris Tracey read the September 24, 2020 email from Attorney Lanza into the record. Mr. Tracey stated he was hopeful there would be more supportive information to detail the reason why this tower should be allowed at this height. Mr. Tracey personally contacted the property owners mentioned in David Tivnan letter to determine if they have any interest in locating a wireless communication tower on their property. The current owners of 72 Mass Ave had never heard from Verizon, however the previous owner was contacted and had no interest. The owners at 47 Bolton Road have no interest. The owners 71 Bolton Road, stated he received a letter about a year ago, but never had any conversations with anyone from Verizon and has no interest. Mr. Tracey does not see any reason for Verizon to have to follow back up with these property owners at this point.

Mr. Tracey asked David Tivnan how the process of locating a potential location works. Mr. Tivnan stated the first focused was on the water tank on Bolton Road through the Town Administrator, Tim Bragan. This was a multiple year process that did not yield a positive outcome. Mr. Tivnan then started contacting parcels within that area with correct elevation and

setbacks through a formal letter. If there is no response to those letters there was no additional follow up. Mr. Tracey asked if wireless companies ever purchase land. Attorney Swiniarski stated it is rare.

Harvard 3 Map existing footprints (attachment C) was displayed for discussion – map shows volume and not coverage as shown on attachment A & B of the application. The areas in white on the map does not mean you can't make a phone call – that can depend on time of day, the device being used, etc.

Attorney Swiniarski thinks Attorney Lanza's reading of the law is outdated by about 10 years. Attorney Swiniarski will provide a response to the advice provided by Attorney Lanza. Attorney Swiniarski stated there is no threshold for good coverage. The question "what is coverage", is not based on the ability of a customer to be able to make a phone call. The question of "Where can we go to find better coverage" can't be found, therefore the proposal that is given is the best location for the best available coverage. The height is key because the community can see the tower from various locations. Attorney Swiniarski stated they attempt to determine what the sweet spot; is for a tower; do not necessarily need to go to a height of 160' and could go down to 140', but a co-locator could come in and by-right and add to the height of the tower.

Steve Moser asked if the application is only for the coverage Verizon will be providing. Attorney Swiniarski stated yes. Mr. Moser followed-up with a question in regards to other towers that have other carriers that provide additional coverage in Town. Attorney Swiniarski stated other carriers have, for the most part, the same coverage. Mr. Moser asked if all of the towers in Town have co-locators. Attorney Swiniarski stated he believed this to be so, but can't be certain.

David Maxson, peer consultant from Isotrope, stated many questions asked this evening are answered in his report and he can explain better some of the things Attorney Swiniarski has had to say this evening. Mr. Maxson stated the letter from Town Counsel is the narrow original case law. Capacity of a tower is addressed as well within his report. Mr. Maxson stated in regards to material impairment, there is not much case law at this point; he could show coverage and capacity, but would need metrics to answer the material impairment question. Material impairment would be up to the Board or Town Counsel, he could provide information that would assist in making a decision.

The balloon trial conducted recently was discussed. It was recommended it be conducted again this Saturday as the previous second day was cut short due to complications with the balloon and wind.

Mr. Lawton requested the tower at Carlson's Orchard be shown as an alternative to the proposed tower as it may provide relevant coverage.

Greg & Barbara Romero had questions about the location of the tower as it pertains to their abutting property. Jim Saalfeld would like time to pursue the Hildreth House as an alternative location for a tower.

Steve Moser made a motion to continue the hearing to November 10, 2020 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

## **Harvard Zoning Board of Appeals**

### **Special Permit Hearing Minutes**

**Pablo Carbonell, 45 Pine Ridge Drive**

**October 14, 2020**

The hearing was opened at 8:00pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Michael Lawton and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Pablo Carbonell and Bruce Ringwall (GPR, Inc.)

This hearing is for a Special Permit filed on behalf of Pablo Carbonell for the demolition and reconstruction of a pre-existing non-conforming structure, as well as the conversion of the dwelling from seasonal to year-round use at 45 Pine Ridge Drive, Harvard.

As an abutter, Theodore Maxant was unable to participate as a voting member for this hearing. Chris Tracey, Chair, assigned Orville Dodson as the third voting member for this hearing.

Bruce Ringwall, from GPR, Inc., detailed the plan to remove and rebuild the existing cottage, which are the same plans approved three years ago by the Board. The Conservation Commission has extended the Order of Conditions. Mr. Ringwall has not heard back from Board of Health (BOH) as of yet. The plan proposes removing the non-title five septic system. Mr. Ringwall asked the decision of the Board be conditioned on receiving approval from the BOH.

Theodore suggested any conversion from seasonal to year-round use along Willard Lane should require a \$5000 contribution to the road maintenance. The applicant, Pablo Carbonell, stated as a member of the Still River Realty Trust Association he pays for road maintenance and plowing annually.

With no further questions, Steve Moeser made a motion to close the evidentiary portion of the hearing. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye

After briefly reviewing the previous findings, Steve Moeser made a motion to issue a Special Permit to Pablo Carbonell for the demolition and reconstruction of a pre-existing non-conforming structure, as well as the conversion of the dwelling from seasonal to year-round use at 45 Pine Ridge Drive with the condition that any and all approvals necessary from the Board of Health will be obtained before a building permit is issued. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Orville Dodson, aye; and Chris Tracey, aye.

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

## **Harvard Zoning Board of Appeals**

### **Variance Hearing Minutes**

#### **Peitao Deng, Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road**

**October 14, 2020**

The hearing was opened at 8:15pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Michael Lawton and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Peter Deng, Neil Gorman (Ross Associates), Pam Brown, Joanna Aloise, Alison Thornton, Steve & Susan Coldwell and Suzanne Allen

This hearing is for a Variance filed on behalf of Peitao Deng to allow for a common driveway with slopes greater than eight-percent (8%) to serve up to four (4) new house lots on Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road, Harvard.

Neil Gorman, from Ross Associates, Inc., stated site restrictions on Lot 6 make the development of this lot difficult as frontage along Littleton Road include a bordering vegetated wetland (BVW) and the pond on Lot 5 extends wetland buffer zones onto the lot. With the frontage bisecting a wetland, the proposed plan details accessing the site with a common driveway that would have minimal disturbance to the BVW. The plan proposed three dwellings currently, with the potential for a fourth lot depending on wetland resource areas on the remaining 17 acres, which includes a portion of 214 Littleton Road.

Mr. Gorman explained the slope of the driveway changes a few times because of the lay of the land. The 1,468 foot long driveway is at a 3.5% slope along the first 83 feet as you enter the property; the next 241 feet of driveway has a proposed slope of 8.0%; with the following 472 feet at a proposed slope of 9.59%; the next 29 feet of the driveway flattens at the single driveway serving Lot 2; the driveway then requires a proposed slope of 11.79% to traverse 123 feet more to the buildable portion of the properties; the final portion of the driveway, equaling over 520 feet, would not exceed a slope of 4%. The proposed driveway has been routed in this manner to minimize unnecessary expenses for the applicant. Maintaining the 8% slope would require cutting a deep gorge into the slope.

The Department of Public Works is not worried as the first 83' are flat, but the applicant would not be permitted to allow water to enter the street from the site. The Conservation Commission would need to address stormwater runoff issues during the Notice of Intent process. The Fire Department stated they had reviewed similar locations in Town and are supportive of the variance request if the applicant agrees to install residential sprinkler systems in any of the dwellings. The Fire Department is concerned with inclement weather, as it would impede and delay their ability to access the area, therefore the installations of the sprinkler systems would provide additional time for occupants to safely exit the building in an emergency.

Mr. Gorman stated the topography of the property and wetland resource areas are the reasons for seeking this variance, noting the steepest portions of the driveway are the longest runs of the proposed driveway.

Steve Moeser stated the original Poor Farm at 166 Littleton Road has so many convoluted lots. Mr. Moser wanted to understand the ownership of the parcels in questions. Mr. Gorman explained Peitao Deng owns Lot 6, a 6.77-acre parcel, and Matthew Corbett owns 214 Littleton Road, a 24.72-acre parcel. Mr. Gorman stated the lot configuration is due the wetlands and the site is very hilly site. If the driveway maintains an 8% grade by the time you get to the corner of Lot 6 you would have an 8 to 10 foot cut into the hill, causing ground water to be coming out in great amounts in the spring and other wet times of year. Mr. Moeser stated not all lots in Harvard a developable. Mr. Moeser asked how this parcel is different than others in the district. Mr. Gorman stated the Corbett land would not have the ability to be subdivided due to even steeper slopes. Mr. Gorman stated he believes the lots are unique due to the steep slopes and high groundwater. Mr. Moeser asked if there had been any soil testing as of yet. Mr. Gorman stated to conduct soil testing without knowing if the Town will grant the variance is spending the client's money unnecessarily. Mr. Gorman added to comply with the zoning bylaw the driveway would have to go on to land that is not owned by Mr. Deng or Mr. Corbett.

Chris Tracey stated he needs comments from the Planning Board before being comfortable with moving forward with this project. Liz Allard asked if Mr. Gorman has been in touch with the abutting property owner, Byers, to determine if a portion of that land could be purchased; he had not.

Phil Robinson asked about the silted culvert along Littleton Road. Ms. Allard explained the Protective Bylaw does not allow for an increase in stormwater runoff from a developed site. In addition, the site will improve stormwater runoff overall with the addition of best management practices (aka BMP's) facility to control stormwater that is non-existent now.

Alison Thornton wants to know how things will be mitigated. Mr. Gorman explained again State standards also do not allow for water to enter the roadway. Mr. Gorman further explained the process for determining the stormwater mitigation.

Pam Brown stated work completed on the Corbett land created additional water runoff for the houses in the area. Ms. Brown wondered what had become of the offer to donate Parcel B for open space to the Town. Ms. Allard explained that donation is with a different property owner of some of the Poor Farm lost and is still being worked out.

With the Board seeking additional information in regards to the criteria necessary to issue a variance, Steve Moeser made a motion to continue the hearing to November 10, 2020 at 8:30pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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





**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
NOVEMBER 10, 2020**

Chair Chris Tracey called the meeting to order at 7:02pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Barbara & Gregory Romero, Roseanne & Jim Saalfeld, Alice & Peter von Loesecke, Matthew Flokos (Harvard Press), David Maxson (Isotropé), Staci Donahue (Vice Chair Planning Board), Susan Kilroy-Ames, Pam Brown, Dan Wolfe (Ross Associates, Inc.), Peter Deng, Chris & Kerri Green, Bill Calderwood, Robin Carlaw, Jim Lee, Scott Murray, Young Boissy, Mark O' Hagan (Weston Development Group), Sotir Papalilo (Weston Development Group) and Steve Coldwell.

**Continuation of a Variance Hearing – Cellco Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.** Opened at 7:05pm. (See page 3 for complete details)

**Continuation of a Variance Hearing – Peitao Deng, Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road.** Open at 8:31pm (see page 5 for complete details)

**Request to Endorse Craftsman Village Harvard Accepted Revised Plan and Endorse Approval Not Required Plan**

Mark O' Hagan and Sotir Papalilo, of the Weston Development Group, were present to request approval of the revised site plan and endorsement of the Approval Not Required plan. Mr. O'Hagan stated the Board of Health is satisfied with the proposed plan for soil remediation. With soil remediation addressed the stop work order on the site has been lifted. Soil remediation created the need for a slight change in grade on the site. Mr. O'Hagan requested the Board accept the revised plans as an unsubstantial change. Steve Moeser made a motion to that effect. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Steve Moser made a motion to endorse the "ANR Plan" for Craftsman Village Harvard, LLC, Project No: 15-5174, prepared by Places Associates, Inc., October 2, 2020. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Mr. O'Hagan requested the Board entertain a waiver of the building permit fees for the five affordable units. Mr. O'Hagan stated the time and money spent for the soil remediation was much more than anticipated. Mr. O'Hagan stated each permit would range between \$3000 and \$3500. Steve Moeser was concerned with the remaining fee being sufficient to cover the expenses of monitoring this project by the Building Commissioner. Chris Tracey recommended input be sought from the Building Commission, Select Board and/or the Town Administrator, including whether or not the Board has the authority to waive the building permit fees.

**Approve Minutes**

Minutes were unavailable for approval this evening

**Approve Invoice – Isotrope, \$337.50 (peer review)**

Steve Moeser made a motion to approve the invoice for Isotrope in the amount of \$337.50. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

**Request to Extend Comprehensive Permit – Pine Hill Village, Stow Road (Map 36 Parcels 85 & 86.1)**

Steve Moeser made a motion to extend date listed within Conditions 3.35 of the Comprehensive Permit for Pine Hill Village, Stow Road (Map 36 Parcels 85 & 86.1) to December 31, 2021. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

**Adjournment**

At 8:16pm Steve Moeser made a motion to adjourn the meeting. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated November 10, 2020
- ANR Plan for Craftsman Village Harvard, LLC, Project No: 15-5174, prepared by Places Associates, Inc., October 2, 2020.
- Letter from Isotrope to Christopher Tracey RE: Bolton Road Water Tank November 17, 2020
- Conceptual Driveway Plan Peitao Deng Littleton Road Harvard, MA Lot 6-8 Map 13 Parcel 29.6 & portion of 22 prepared by David E. Ross Associates, Inc., September 2020
- Isotrope Invoice#19218 10/15/2020

**Harvard Zoning Board of Appeals  
Continuation of a Variance Hearing Minutes  
Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road  
November 10, 2020**

The hearing was opened at 7:05pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Barbara & Gregory Romero, Roseanne & Jim Saalfeld, Alice & Peter von Loesecke, Matthew Flokos (Harvard Press), David Maxson (Isotrope), Staci Donahue (Vice Chair Planning Board), Chris & Kerri Green, Bill Calderwood and Robin Carlaw

This hearing was continued from October 14, 2020 for a Variance filed on behalf of Cellco Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Christopher Swiniarski, the Attorney for Verizon Wireless, had provided an update to comments made at the previous meeting and the response from Town Counsel in a letter from dated November 9, 2020. In addition, Attorney Swiniarski had provided a copy and except from a case in 2013 that rules a gap is ill relevant when a local municipality is permitting a wireless communications tower. Federal law desires that every carry provides better service to the public; material submitted on November 9, 2020 details the Federal Communications Commission requirements on this matter. For example, a municipality could not have a bylaw that makes it impossible to locate a tower. Chris Tracey disagrees and will invite Town Counsel, Mark Lanza, to the next meeting to further discuss as the predominate detail in the application was a gap in coverage. Mr. Tracey wants the Board members who are going to vote on this application to have the ability to understand the laws.

Attorney Swiniarski stated attempts to provide additional coverage from the Carlson Orchard tower were unsuccessful; Westward Orchard is not a viable location as stated in an unsolicited letter to the Board; and Town-owned land was dismissed a number of years ago.

Attorney Swiniarski stated comments received from the Planning Board were in draft form; please provide official comments for proper response. A revised photo simulation has been submitted.

Mr. Tracey asked about extending the height of the fire tower on Pinnacle Road. Keith Vellante, Real Estate for Verizon Wireless, stated increasing surrounding sites will increase the service, but will not replace the need of filling the gap. Steve Moeser asked if Verizon was going to pursue the Hildreth House. Attorney Swiniarski stated this location was not viable per Town Administrator, Tim Bragan. Mr. Moeser believes that opinion has changed and has been discussed at recent Select Board meetings. Mr. Tracey stated there has been no evidence that a Request for Proposals (RFP) is forthcoming. Mr. Tracy requested the Land Use Administrator send a memo to Select Board requesting an update.

David Maxson, from Isotrope, the peer consultant for the Board, has not reviewed anything new from the last meeting, but has information he can provide from the previous hearing on October 14<sup>th</sup>. Mr. Maxson suggests detailing the matrix in which the gap in coverage is being measured by and what the applicant is trying to accomplish. Mr. Maxson agrees using the existing tower by

increasing height will provide stronger signals, but more is not always better when it comes to a few towers with more co-locators. Harvard's bylaw is a mandate to maintain short towers and not limit the number of towers within Town. Mr. Maxson stated the bylaw is clear that the Town wants towers at 105' or less; he does not see the reduction to 105' fatal to Verizon's coverage, although it may be reduced it is still providing coverage.

Mr. Maxson discussed the prohibition of service in regards to the requested variance. Is the applicant asking for a replacement of the existing tower? It seems clear from the attorney for Verizon it was a new tower in a new location. The new tower is closer to the property line than the existing tower. Increase in relief for the new tower as opposed to a replacement would reinforce maintaining the existing height. However, replacing the existing tower might not require as much relief of that being requested by the variance. Would the existing structure or a replacement structure provide the necessary coverage? Mr. Maxson believes it could. Having service at this tower is complimentary to others such as the Fire Tower and Carlson's.

In regards to the Hildreth House, the Select Board has the opportunity to issue an RFP at any time it wants, but Town Meeting vote would be needed to lease town-owned land. This would put three towers in the center of Town. That would create a high-capacity area in a heavily used area in Town and the best quality coverage for the most people in Town. Mr. Maxson can address facilities at the south and south east side of Town at another time.

Mr. Tracey stated having a variety of towers makes a lot of sense and thinks the assessment provided by Mr. Maxson of having an overlap of coverage in the center is spot on. Maps provided by Mr. Maxson were reviewed. These maps detailed the coverage/capacity provided with existing and proposed towers.

The attributes of the variance request were discussed when Mr. Tracey asked what if the setback variance was approved but not the height. Attorney Swiniarski explained the bylaw accommodates for as many co-locators without impeding the view shed. Verizon is seeking a tower at 160' because they do not want to build a tower and end up having antennas on the tower lower than the co-locators. Attorney Swiniarski stated Verizon would be happy with a tower at 125'. Mr. Tracey asked for further explanation in regards to co-locators being higher on the tower than Verizon. Attorney Swiniarski stated Verizon would not want competitors to have an advantage to coverage over them at a higher location. Mr. Tracey asked if the Variance could be conditioned requiring that the builder of the tower be located at its highest point? Attorney Swiniarski stated the Board can not make such a condition, but what they can do is have a condition that the tower height can not be extended by right by making the case that the height is part of the stealth/camouflage for the tower. Further discussions of the matter resulted in the understanding that under Section 6409 of the Spectrum Act of 2012 modifications to the tower would require Town approval.

Mr. Moeser asked if a tower was built at the Hildreth House would the Woodchuck Hill Road property be redundant. Mr. Vellante stated an applicant may look for another location to not have so much overlap. However, at 105' and two carriers on each you could have both for different provides. Attorney Swiniarski stated there is a big assumption here for Hildreth House; Verizon had asked for years with no approval and say now that it is viable may not be considered an alternative by the Courts.

After a brief discussion on the proceedings and moving forward, Steve Moeser made a motion to continue the hearing to November 18, 2020 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

**Harvard Zoning Board of Appeals  
Continuation of a Variance Hearing Meeting Minutes  
Peitao Deng, Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road  
November 10, 2020**

The hearing was opened at 8:31pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Susan Kilroy-Ames, Pam Brown, Dan Wolfe (Ross Associates, Inc.), Peter Deng, Staci Donahue (Planning Board), Scott Murray, Young Boissy and Steve & Susan Coldwell

This hearing was continued from October 14, 2020 for a Variance filed on behalf of Peitao Deng to allow for a common driveway with slopes greater than eight-percent (8%) to serve up to four (4) new house lots at Lot 6 (Map 13 Parcel 28.6) and a portion of 214 Littleton Road

Dan Wolfe, President of Ross Associates, was present to represent the applicant. Mr. Wolfe explained the plans provided to the Board are not the final plan as he is here to gain the variance before moving forward with the other aspects of the plan and application process. Mr. Wolfe stated the hardship has to rise out of the land itself. In Harvard property owners are faced with steep slopes, wetlands and soil conditions all the time, but in this case we are up against all three of those constraints, with wetlands right at the road, which will require a small segment to be crossed with the common driveway; then the steep slope, as proposed the driveway will climb this steep slope, side-stepping the hill side to remain on the existing property, all while trying to avoid shallow deeps to ground water. The uniqueness of this property in comparison to others in the district are the factors of dealing with those three aspects. Mr. Wolfe concluded by stating other properties in the district are able to find solutions to building constraints, which is clear from the limited number of variances requested.

Steve Moeser asked when was the lot created. Mr. Wolfe stated 2-3 years ago when the over all property of the Poof Farm was divided. Mr. Moeser asked if Mr. Deng a part of the division of these lots. Mr. Wolfe stated he was. Mr. Moeser grappled with how the shape of the lot was conceived. Mr. Wolfe stated the overall lot of the original land at 166 Littleton Road was oddly shaped as well. Mr. Moser asked if ground water is a problem then why the slope can't be lowered. Mr. Wolfe stated because cutting into the slope will create more ground water issues. Mr. Moeser asked why ground water could not be solved with drainage. Mr. Wolfe stated the drainage would be better dealt with if less cutting of the slope.

Theodore Maxant asked questions about 214 Littleton Road. Mr. Maxant thinks this is more about profit as opposed to a hardship of paying taxes on a buildable lot for years as Board has seen in other variance requests. Mr. Maxant sees a self-created hardship in this case.

Susan Colwell, of 192 Littleton Road, stated the area currently has problems with water and drainage, which really needs to be considered and is being passed over. Chris Tracey explained what the Board's focus is with this application and concerns she has should be addressed by the Planning Board.

Mr. Tracey asked Mr. Wolfe and his client if they would like to withdraw the variance request without prejudice; Mr. Wolfe advised his client. Mr. Wolfe asked Mr. Maxant if he would be okay with a single-family house lot that may need a variance for the driveway. Mr. Maxant asked when

was the lot created. Mr. Wolfe stated the last 2-3 years. Mr. Maxant did not think he would entertain such a proposal as this was not a preexisting lot.

On behalf of his client, Peitao (Peter) Deng, Dan Wolfe requested the application for a variance be withdrawn without prejudice. Steve Moeser made a motion to accept the withdrawal of the variance application without prejudice. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

DRAFT

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
NOVEMBER 18, 2020**

Chair Chris Tracey called the meeting to order at 7:04pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Mark Lanza (Town Counsel), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Barbara & Gregory Romero, Roseanne Saalfeld, Matthew Flokos (Harvard Press), David Maxson (Isotrope), Peter Dorward, Bill & Robin Calderwood

**Continuation of a Variance Hearing – Cello Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.** Opened at 7:08pm. (See page 2 for complete details)

**Executive Session**

Chris Tracey made a motion the Zoning Board of Appeals (ZBA) go into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3) to discuss strategies with respects to potential litigation between Cellco Partnership d/b/a Verizon Wireless and the Zoning Board of Appeals and permit Land Use Administrator/Conservation Agent Liz Allard, Town Counsel Mark Lanza and peer consultant David Maxson to participate in the executive session at their respective remote locations. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Mr. Tracey stated the ZBA will reconvene in open session in approximately 20 minutes.

**Request from Craftsman Village Harvard to Waive Affordable Units Building Permit Fees**

After a brief discussion, Steve Moeser made a motion to not waiver the building permit fees for the affordable units at Craftsman Village Harvard. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Michael Lawton, aye; Orville Dodson, aye; and Chris Tracey, aye.

**Adjournment**

At 9:36pm Theodore Maxant made a motion to adjourn the meeting. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Michael Lawton, aye; Orville Dodson, aye; and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated November 18, 2020
- Letter from David Maxson of Isotrope Wireless to Chris Tracey Zoning Board of Appeals, RE Bolton Road water tank, dated November 17, 2020
- Hypothetical location of tower at Bolton Road water tank parcel, undated

## **Harvard Zoning Board of Appeals**

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

#### **Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road**

**November 18, 2020**

The hearing was opened at 7:08pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Mark Lanza (Town Counsel), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Barbara & Gregory Romero, Roseanne Saalfeld, Matthew Flokos (Harvard Press), David Maxson (Isotrope), Peter Dorward, Bill & Robin Calderwood

This hearing was continued from November 10, 2020 for a Variance filed on behalf of Cellco Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160-feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Chris Tracey read comments received from into the record. Mr. Tracey has requested an update from the Select Board in regards to available land to locate a wireless communication tower (WCT) on Bolton Road at which an existing water tower is located. The Town Administrator, Tim Bragan, has confirmed at the 2002 annual town meeting the location received approved as an active parcel to be considered for locating a WCT. This vote has never been rescinded and therefore could still be considered by the Town as a viable location for a WCT. Mr. Tracey has been busy rounding up appropriate information in regards to other potential locations for a WCT. David Maxson, peer consultant for the Board, was able to assess the water tower location and provide a report.

Town Counsel Mark Lanza stated he reviewed the 2002 vote, he not only recalls the vote, but also what lead to it. Ultimately the vote passed Town Meeting. There is no doubt in Attorney Lanza's mind that the parcel on Bolton Road is available for a WCT. The Select Board may need to prepare a Request for Proposal (RFP) depending on the lease amount and could determine to license the land as opposed to leasing, but as a license it could be terminated at will, which Attorney Lanza would not advise.

Mr. Maxson stated the elevation is very consistent at the Bolton Road location, therefore there is not interference from the tank itself. Mr. Maxson stated the location is physically suitable for a WCT, however he is not sure how wetlands may affect that. The assessment Mr. Maxson provided delineates an area that has a shadow, where as the proposed tower would cover this area. As for achieving improvements in and around the center of Town the Bolton Road location falls short from the tower proposed on Woodchuck Hill Road. By extending a WCT another 20 - 40' on Bolton Road the gap in coverage could be diminished.

Attorney Christopher Swiniarski asked when you say it is available, is it available to Verizon Wireless; the answer is "no", we all know that. Attorney Swiniarski stated Verizon attempted for seven years to locate a WCT in Harvard. Attorney Swiniarski stated he knows this game,



because the Supreme Judicial Court just turned down the Town of Peabody in a similar situation. Mr. Bragan stated today it was not available.

Mr. Tracey asked Attorney Swiniarski if he was willing to continue the hearing until after the December 15 meeting of the Select Board, at which they will determine if they are willing to issue an RFP for Bolton Road. Attorney Swiniarski asked if it was reasonable to make Verizon wait even longer and possible be competed out by another provider; not to mention the abutters to the Bolton Road property may take issue with a WCT next to them. Attorney Swiniarski thinks the Board is missed informed to think an analysis could be completed in a month. Although he does not think that will happen, he will agree to continue the hearing. Attorney Swiniarski believes it is important to meet with the abutters of the Bolton Road land before the Select Board meeting. Attorney Swiniarski was willing to continue the hearing as long as the decision is filed with the Town Clerk no later than December 31<sup>st</sup>.

Steve Moeser stated this will not be the last WCT in Harvard where there will be objection from the abutters. Mr. Moeser is disappointed the Select Board knew this was happening and did not provide support. The Select Board are the gate keepers of Town and they should not have let this drag out as long as it has. Unless there is some discernable direction from the Select Board Mr. Moeser does not want to give Bolton Road any consideration.

Theodore Maxant stated he has viewed many WCT from southern New Hampshire to western Massachusetts, some being very tall with many carriers. In the beginning he thought that this was an acceptable variance, but now he knows a tower at this height is a colossal sized WCT. The allowed height under the bylaw should be maintained. A WCT at 160' is going to affect the landscape. Mr. Maxant is okay with a smaller tower in this residential area, but would deny a WCT at 160' and would ask Verizon to reconsider the WCT at 115'. Mr. Tracey asked Mr. Maxant if he had any comments on the Bolton Road property. Mr. Maxant stated he did not and the Board wasting time talking about other locations. Orville Dodson agreed strongly with that statement. Mr. Maxson added a fact check – the Protective Bylaw allows for a WCT at 105' and not 115'. Attorney Swiniarski agrees with Mr. Maxant and added Verizon is fine with a WCT at 125' limited to use by Verizon only.

The Board discussed the ability to achieve an acceptable height of the WCT including camouflage as well as the implications of Section 6409(a) of the 2012 Spectrum Act.

There were no comments from the public this evening.

Attorney Swiniarski asked about meeting with the abutters; he is willing to holding his own meeting if that is okay with the Board. Attorney Swiniarski agreed to extend the public hearing to December 17, 2020 with 14-days to file the decision with the Town Clerk.

Barbara Romero, a direct abutter, just wants to make the point that this is a new tower.

Steve Moeser made a motion to continue the hearing to December 16, 2020 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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



**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
DECEMBER 16, 2020**

Chair Chris Tracey called the meeting to order at 7:02pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), Keith Vellante (Real Estate for Verizon Wireless), Fran & Rick Maiore, Barbara & Gregory Romero, Roseanne Saalfeld, Bill & Robin Calderwood and John Osborn (Harvard Press)

**Continuation of a Variance Hearing – Cellco Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.** Opened at 7:05pm. (See page 2 for complete details)

**Approve Minutes**

Steve Moeser made motion to approve the minutes of August 12, 2020 as amended. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

**Election of Officers**

Michael Lawton made a motion to elect Liz Allard as Clerk of the Zoning Board of Appeals for the 2022 Fiscal Year. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

Theodore Maxant made a motion to elect Michael Lawton as the Vice Chair of the Zoning Board of Appeals for the 2022 Fiscal Year. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

Theodore Maxant made a motion to elect Christopher Tracey as Chair of the Zoning Board of Appeals for the 2022 Fiscal Year. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

**Approve Invoice – Isotope, \$1,044.50**

Steve Moeser made motion to approve the invoice from Isotope in the amount of \$1,044.50 for peer review. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

**Adjournment**

At 8:51pm Steve Moeser made a motion to adjourn the meeting. Michael Lawton seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

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

**Harvard Zoning Board of Appeals  
Continuation of a Variance Hearing Minutes  
Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road  
December 16, 2020**

The hearing was opened at 7:02pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Mark Lanza (Town Counsel), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC, Barbara & Gregory Romero, Rick & Fran Maxson Maiore, Keith Vellante, Roseanne Saalfeld, Bill & Robin Calderwood, David Maxson (Isotrope) and John Osborn (Harvard Press)

This hearing was continued from November 18, 2020 for a Variance filed on behalf of Cellco Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Chris Tracey read comments received since the previous meeting from Jim Saalfeld, Greg and Barbara Romero into the record. Mr. Tracey detailed the legal non-conforming structure as confirmed by the Zoning Enforcement Officer and the advice from Town Counsel in regards to a Special Permit from Zoning Board of Appeals (ZBA). Attorney Chris Swiniarski agreed a finding under Section 6 of Massachusetts General Law (MGL) Chapter 40A would be the correct option moving forward; Site Plan Approval would still be required from the Planning Board. Mr. Tracey explained with the right to expand a legally non-conforming structure (MGL c.40A §6) allows the applicant the right to amend the request from a variance to a special permit.

Town Counsel, Mark Lanza, explained in the mid-to-late 1990's Harvard was starting to get a grip on cell towers in Town. Rick Maiore was a member of the Board of Selectmen and he brought to light the tower on his property was non-conforming. Some of the antennas on that tower were not authorized, however the base tower was a prior non-conforming structure and in use in 1997. What is significant is the ZBA found the use and existing tower were grandfathered, with no one appeal or abandonment of the use for greater than two years. Attorney Lanza further explained the applicant could apply for Special Permit under 125-3C for a pre-existing non-conforming commercial use. The criteria for a Special Permit are much lower than that of a variance. A request to amend the application from a variance to a Special Permit could be done verbally or by written notice. Mr. Tracey asked if by allowing the amendment would the ZBA still have the ability to limit the use of the tower by other carriers and require the existing tower be removed within a specific timeframe. Attorney Lanza stated yes.

Originally a variance was necessary at 160', but now the applicant is seeking a tower with a similar height as the existing tower. Attorney Swiniarski is amenable to the ZBA voting on the finding on the abandonment, but not amenable to limiting the permit with a timeframe. Attorney Lanza provided advice on making the decision on the abandonment. Theodore Maxant wants confirmation that there are no other carriers on the tower now under contract to an additional amount of time. Attorney Swiniarski stated he does not know of any other carriers transmitting from the existing tower; has claimed from day one that the existing tower will be removed; willing to timeframe it at 30-days for removal once the new tower is constructed.

The email from Zoning Enforcement Officer, Jeff Hayes, was read into the record. Mr. Tracey asked members their preference moving forward. The general agreement was to allow for the application to be amended from a Variance to a Special Permit.

Mr. Tracey turned to the vote of the Select Board to issue a Request for Proposal for the Bolton Road property to expand the coverage within the Town of Harvard. Mr. Moeser feels even if the ZBA approved a tower on Woodchuck Hill Road another tower will eventually be located on the Bolton Road property. Mr. Moeser thinks the proposed tower at on Woodchuck Hill Road will be less intrusive than what is currently there. Mr. Moeser does not think Bolton Road is an alternative to Woodchuck Hill Road as that is would provide difference coverage. Mr. Tracey agrees, but is glad that the issue was brought back up.

Attorney Swiniarski requested the application be amended from a variance to a special permit and the ZBA make a finding that the use still exists.

Jim Saalfeld, an abutter, asked if it is critical to know if the tower has been abandoned before the ZBA makes a finding and if so should proof be provided. Mr. Tracey stated information has been provided by the Maiores stating the use has not been abandon, along with confirmation from Building Commission.

Steve Moeser made a motion stating the Zoning Board of Appeals has determined through evidence provided by the property owner and the Zoning Enforcement Officer there has been no abandonment of use or the structure at 12 Woodchuck Hill Road. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Theodore Maxant made motion accepting the amendment to the application of Celco Partnership, d/b/a Verizon Wireless, from a variance to a special permit. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Attorney Swiniarski requested the Zoning Board of Appeals accept an application for a special permit finding the application is not more detrimental to the neighborhood. Steve Moeser made a to accept the application for a special permit with the finding that the proposed wireless communications tower for 12 Woodchuck Hill Road as presented by Celco Partnership, d/b/a Verizon Wireless is not more detrimental to the neighborhood. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

Greg Romero, an abutter, stated the proposed tower has a much bigger footprint for the base than the existing tower. Attorney Swiniarski stated the proposed tower has a small area, however the fence around the facility is larger and is not detrimental to the neighborhood. Mr. Tracey asked about conditioning screening. Attorney Swiniarski stated not opposed, but typically that is part of the Site Plan Approval by the Planning Board. Mr. Tracey would recommend the northwesterly side of the fenced-in area be fully screened from the abutting property. This item can be written in the decision in a way that makes it a recommendation to the Planning Board.

Mr. Saalfeld wanted to know what the maximum height of the tower will be. It was stated no higher than what is there now, which could typically be done by-right, but the special permit makes it easy to achieve that requirement.

Attorney Swiniarski agree to extend the filing of the decision with the Town Clerk to January 7, 2021.

Steve Moeser made a motion to continue the hearing to December 30, 2020 at 7:00pm. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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

#### **EXHIBITS & OTHER DOCUMENTS**

- Zoning Board of Appeals Agenda, December 16, 2021
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DRAFT

**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
DECEMBER 30, 2020**

Chair Chris Tracey called the meeting to order at 7:03pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton, Theodore Maxant, Steve Moeser and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Mark Lanza (Town Counsel), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), David Maxson (Isotrope) and Fran & Rick Maiore

**Continuation of a Variance Hearing – Celco Partnership d/b/a Verizon Wireless, 12 Woodchuck Hill Road.** Opened at 7:05pm. (See page 2 for complete details)

**Adjournment**

At 7:43pm Steve Moeser made a motion to adjourn the meeting. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Theodore Maxant, aye; Orville Dodson, aye, Michael Lawton, aye; and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated December 30, 2020

## **Harvard Zoning Board of Appeals**

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

#### **Cellco Partnership, d/b/a Verizon Wireless, 12 Woodchuck Hill Road**

**December 30, 2020**

The hearing was opened at 7:05pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Steve Moeser, Theodore Maxant, Orville Dodson and Michael Lawton

**Others Present:** Liz Allard (Land Use Boards Administrator), Mark Lanza (Town Counsel), Christopher Swiniarski (McLane Middleton, Attorney for Verizon Wireless), David Tivnan (SAI Group, LLC), David Maxson (Isotrope) and Fran & Rick Maiore

This hearing was continued from December 16, 2020 for a Special Permit filed on behalf of Cellco Partnership, d/b/a Verizon Wireless, to allow for a replacement wireless communications tower taller than 105 feet and up to 160 feet when a 120-foot wireless communication tower exists at 12 Woodchuck Hill Road, Harvard.

Chris Tracey stated where the applicant's representative, Attorney Chris Swiniarski, and Town Counsel, Mark Lanza, are at in regards to the decision. Both attorneys agreed the language in regards to restricting the height of the tower is on point. The Planning Board will be responsible for ensuring there is a bond sufficient enough to removal the tower should it become abandon.

Mr. Tracey asked if confirmation from the Maiore's should be provided stating they are aware of the distance from the tower to other existing structures on their property. Attorney Lanza stated there is no liability to the Town as no zoning relief is being granted for those structures.

After a brief discussion, Steve Moeser made a motion to close the hearing and issue a Special Permit to Cellco Partnership, LLC d/b/a Verizon Wireless at 12 Woodchuck Hill Road. Theodore Maxant seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Theodore Maxant, aye; and Chris Tracey, aye.

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



**HARVARD ZONING BOARD OF APPEALS  
MEETING MINUTES  
FEBRUARY 10, 2021**

Chair Chris Tracey called the meeting to order at 7:00pm, virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20 under M.G.L. Chapter 40A and the Code of the Town of Harvard Chapter 125

**Members Present:** Chris Tracey, Michael Lawton, Steve Moeser and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates), Jon Mechlin and Ed Lyon

**Special Permit Hearing – Nicola Cavicchio, 53 Turner Lane.** Opened at 7:00pm. (See page 2 for complete details)

**Approve Minutes**

Michael Lawton made a motion to approve the minutes of August 12 and September 16, 2020 as amended. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

**Annual Report**

Orville Dodson made a motion to approve the 2020 Annual Report as drafted. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

**Adjournment**

At 7:43pm Steve Moeser made a motion to adjourn the meeting. Orville Dodson seconded the motion. The vote was unanimously in favor of the motion by a roll call, Steve Moeser, aye; Orville Dodson, aye; Michael Lawton, aye; and Chris Tracey, aye.

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

**DOCUMENTS & OTHER EXHIBITS**

- Town of Harvard, Zoning Board of Appeals Agenda, dated February 10, 2021
- Site Plan Nicole Cavicchio 53 Turner Lane Harvard, MA Job No.: 33465, Plan No.: L-14145 prepared by David E. Ross Associates, Inc., December 2020
- DRAFT Zoning Board of Appeals Meeting Minutes, August 12, 2020 prepared by Liz Allard
- DRAFT Zoning Board of Appeals Meeting Minutes, September 16, 2020 prepared by Liz Allard
- DRAFT Zoning Board of Appeals 2020 Annual Report

## **Harvard Zoning Board of Appeals**

### **Special Permit Hearing Minutes**

**Nicola Cavicchio, 53 Turner Lane**

**February 10, 2021**

The hearing was opened at 7:05pm virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A §20, by Chairman Chris Tracey under the Zoning Act, MGL Chapter 40A and the Code of the Town of Harvard, Protective Bylaw, Chapter 125.

**Members Present:** Chris Tracey, Michael Lawton Steve Moeser and Orville Dodson

**Others Present:** Liz Allard (Land Use Boards Administrator), Dan Wolfe (Ross Associates), Jon Mechlin and Ed Lyon

This hearing is for a Special Permit filed on behalf of Nicola Cavicchio for additions and reconstruction of portions of a pre-existing non-conforming structure at 53 Turner Lane, Harvard.

Dan Wolfe, President of Ross Associates, was present to represent the applicant. Mr. Wolfe explained both the lot and the structure, built in 1910, are non-conforming. The proposed floor plan will remain the same with the exception of enlarging the kitchen and adding a covered deck. The existing setbacks will be maintained. The Board of Health has received the records in regards to the pumping of the tight tank as requested and was provide a copy of the contract for continued pumping. The Conservation Commission (ConCom) has issued an Order of Conditions.

Steve Moeser questioned the number of bedrooms. Mr. Wolfe explained the house currently has three-bedrooms, but the renovations will convert two of the bedrooms into one bedroom creating a two-bedroom dwelling. Mr. Moeser wondered if there should be a condition in regards to the tight tank and the allowed number of bedrooms, as he is concerned with the tight tank failing. The abutter at 49 Turner Lane, Ed Lyon, stated he could attest to the alarm that is connected to the tight tank and it is very audible to the entire neighborhood, therefore a failure of the tight tank would be very unlikely.

Mr. Wolfe address the concerns briefly held by the Bare Hill Pond Watershed Management Committee (BHPWMC) as they had first thought the proposal was to tear down the existing dwelling and build a new dwelling. The BHPWMC then offered their standard comments in regards to prevent nutrients from entering the pond.

Chris Tracey noted there were no proposed gutters along the north side of the dwelling. Board members had no concerns, as the application has been reviewed by both the ConCom and the BHPWMC. Michael Lawton asked if sufficient heat would be provided to the addition. Jon Mechlin, the contractor, stated a high-efficiency heating system is being installed for the entire dwelling.

Mr. Tracey noted emails were received from the Board of Health, Fire Department and Bruce Leicher, chair of the BHPWMC. Mr. Tracey reviewed the requirements for a Special Permit under 125-46C.

Michael Lawton made a motion to close the evidentiary portion hearing. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Michael Lawton, aye; and Chris Tracey, aye.

Michael Lawton made a motion to issue a Special Permit to Nicola Cavicchio for additions and reconstruction of portions of a pre-existing non-conforming structure at 53 Turner Lane. Steve Moeser seconded the motion. The vote was unanimously in favor of the motion by roll call vote, Steve Moeser, aye; Michael Lawton, aye; and Chris Tracey, aye.

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



Chris Tracey  
Town of Harvard  
Zoning Board of Appeals  
13 Ayer Road  
Harvard, MA 01451

March 11, 2021  
Project No: 4095.  
Invoice No: 71832

Project 4095. 40B-Trail Ridge in Harvard, MA  
40B-Trail Ridge in Harvard, MA

Professional Services: July 25, 2020 through February 27, 2021

**Professional Personnel**

	Hours	Rate	Amount	
Project Designer				
Graham, Gavin	11.50	130.00	1,495.00	
Totals	11.50		1,495.00	
<b>Total Labor</b>				<b>1,495.00</b>
		<b>Total this Invoice</b>		<b>\$1,495.00</b>

Project	4095.	40B-Trail Ridge in Harvard, MA	Invoice	71832
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